INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

HEARINGS

BEFORE THE

TEMPORARY NATIONAL ECONOMIC COMMITTEE CONGRESS OF THE UNITED STATES

SEVENTY-SIXTH CONGRESS

SECOND SESSION

PURSUANT TO

Public Resolution No. 113
(Seventy-fifth Congress)

AUTHORIZING AND DIRECTING A SELECT COMMITTEE TO MAKE A FULL AND COMPLETE STUDY AND INVESTIGATION WITH RESPECT TO THE CONCENTRATION OF ECONOMIC POWER IN, AND FINANCIAL CONTROL OVER, PRODUCTION AND DISTRIBUTION OF GOODS AND SERVICES

PART 16

PETROLEUM INDUSTRY
SECTION III

OCTOBER 9, 10, 11, 12, 13, AND 16, 1939

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[1] On file with the Committee.
[2] Admitted to the record October 19, 1939; see Hearings, Part 17, p. 9509.

INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

MONDAY, OCTOBER 9, 1939

United States Senate,
Temporary National Economic Committee,
Washington, D. C.

The committee met at 10:35 a. m., pursuant to adjournment on Saturday, October 7, 1939, in the Caucus Room, Senate Office Building, Senator Joseph C. O'Mahoney presiding.

Present: Senator O'Mahoney (chairman); Representatives Sumners (vice chairman), and Williams; Messrs. Henderson, O'Connell, and Brackett.

Present also: Clarence Avildsen and Robert McConnell, representing the Department of Commerce; Quinn Shaughnessy, representing the Securities and Exchange Commission; William T. Chantland, representing the Federal Trade Commission; Hugh Cox, W. B. Watson Snyder, F. E. Berquist, Christopher Del Sesto, Special Assistants to the Attorney General; Leo Finn and Roy C. Cook, Department of Justice.

The Chairman. The committee will please come to order.

Mr. Hadlick, will you be sworn, please?

TESTIMONY OF PAUL E. HADLICK, SECRETARY, NATIONAL OIL MARKETERS ASSOCIATION, WASHINGTON, D. C.

The Chairman. Do you solemnly swear that the testimony you are about to give in these proceedings shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Hadlick. I do.

The Chairman. Give your name to the reporter.

Mr. Hadlick. My name is Paul E. Hadlick. I am secretary and counsel of the National Oil Marketers Association, with offices here in Washington.

INDEPENDENT MARKETERS

The Chairman. What is the National Oil Marketers Association?

Mr. Hadlick. It is an organization of independent oil jobbers, representing about 30 States east of the Rocky Mountains. They are jobbers, distributors, wholesalers, as the term is loosely used in the oil business.

The Chairman. How many members are there?

Mr. Hadlick. I would prefer not to disclose that in open hearings, Mr. Chairman. If you insist, I will.

The Chairman. I can't very well understand your reason for not wishing to do that.

Mr. HADLICK. We have 250 members.

The CHAIRMAN. Are they independents or integrated companies?

Mr. HADLICK. They are strictly independent men who own and operate their own businesses.

The CHAIRMAN. When was the organization formed?

Mr. HADLICK. It was first organized in August 1933. It was incorporated in June 1935.

The CHAIRMAN. How long have you been associated with it?

Mr. HADLICK. I have been associated with the organization since 1933.

The CHAIRMAN. Were you associated with the petroleum industry in any way before that?

Mr. HADLICK. I first became secretary of the Minnesota Petroleum Association in 1924 and served with that association and the successor organization known as the Northwest Petroleum Association until 1930. From 1930 to '33 I was secretary of the Division of Marketing of the American Petroleum Institute, leaving their service on, I believe, August 1, 1933.

The CHAIRMAN. You may proceed.

Mr. HADLICK. I have a prepared statement, and, first of all, I will offer that for the record and then will proceed to present what I believe are the highlights of that statement.

The CHAIRMAN. The statement may be received.

(Mr. Hadlick's prepared statement was marked "Exhibit No. 1211," and is included in the appendix on p. 9151.)

Mr. HADLICK. First of all, I would like to call the committee's attention to the principal products with which we are dealing. They are the products in which the jobber is interested. I have some figures prepared by Walter N. Polakov, of the United Mine Workers, which show the percentages of gasoline, kerosene, fuel oil, lubricants, and all other products.

Representative WILLIAMS. Who is this gentleman? What is the source of his information?

Mr. HADLICK. I do not know. My principal reason in bringing it up is that, if the figures are not 100 percent correct, they are very close to it, and I don't think anyone in the industry would doubt it. They are taken for the year 1937, both in volume and in value. I would like to submit them and read the figures to you as being what I believe to be the correct figures. If anyone in the industry doubts their exactness, I would certainly stand corrected, but I don't think anyone would question them.

Representative WILLIAMS. What is your basis for believing they are correct?

Mr. HADLICK. My general experience with the industry and study over the past 14 years.

Representative WILLIAMS. Have you made any compilation along that same line?

Mr. HADLICK. No; not exactly.

The CHAIRMAN. What do they purport to show?

Mr. HADLICK. They purport to show that in volume the gasoline accounts for 49.1 percent, kerosene 5.7 percent, fuel oil and gas oil 40.2 percent, lubricants 2.85 percent, and all others 2.15 percent. That is in volume—what becomes of the crude oil that comes from the ground.

The CHAIRMAN. How did it happen that a person associated with the United Mine Workers should be preparing statistics on petroleum?

Mr. HADLICK. The only way I can explain that is, perhaps, because of their interest in the fuel-oil competition, representing the coal miners.

The CHAIRMAN. Were they published?

Mr. HADLICK. I don't know whether this has been published or not. I assume it has.

The CHAIRMAN. How did you get them?

Mr. HADLICK. It was given to me by a party who knew Mr. Polakov and brought it over to my office. I am not trying to introduce it here in the record; I am merely trying to give you what I believe to be a basis so that we will understand that while face cream at $2 a pound does use a product of oil, the bases that we as jobbers are interested in are these products that constitute about 98 percent or better of the industry.

The CHAIRMAN. May I see that?

Mr. HADLICK. The independent oil jobber is generally one who operates a bulk plant handling these four products that I mentioned; gasoline, keresene, fuel oil, and lubricants. There are some jobbers who handle only one of those products. That is particularly true in the case of fuel oil which is distributed largely by coal companies who, having the fuel accounts of the community and finding the conversion from their coal accounts going to the oil companies, put in supply storage for fuel oil. There are some who are strictly lubricating-oil jobbers. That is true particularly in our metropolitan cities where the gasoline-price wars have forced most of the independent jobbers out of the business.

Now there are in the United States approximately 8,000 independent oil jobbers; that is, jobbers who own and operate their own business. They may market under their own brand; they may market under a refiner's brand, either major or independent.

These jobbers, as I say, do own and operate their business. The published lists in the industry take into consideration the great many men who own a plant but who have nothing to say as to the operation. Mr. Pew, of the Sun Oil, described his contract to you where the man was merely an agent. We do not classify that party as being an independent oil jobber.

Now the problem that confronts the independent jobber is not that the function will be eliminated, but whether the function will be performed by independent businessmen who can offer price competition or by controlled agents who have no discretion. With the contracts such as referred to by Mr. Pew, the jobber, like the dealer, is loaded with all the burdens of an independent, and none of the benefits. Likewise, he has all the burdens of an employee and none of the benefits.

COSTS OF MARKETING AND THE DIFFICULTIES OF INDEPENDENT MARKETERS

Mr. HADLICK. I want to discuss the matter of costs of marketing. First of all, I want to refer you to a chart from the World Petroleum Magazine of December 1937. This chart has been reproduced. (Comparison of Net Profits and Investments by Major Divisions of

the Petroleum Industry, 1927–29 and 1931–34.)[1] It shows, using 100 percent, the investment in the oil industry and its profits.

This has been broken down to show the investment in pipe lines and the profits in pipe lines, the investment in production and the profits in production, the investment in refining and marketing and the losses in those two branches.

There have been times in the period covered when refining has shown a profit. I do not know what the figures would show, but this line would be projected further down if refining had been separated from marketing.

I also point out the years, 1927–29 and 1931–34.

The author of that article and that chart was Mr. Paul Ryan, who has apparently been making a study of the industry for sometime. I have never met the gentleman but from the trade press I learn he is now president of the National Refining Co.

Mr. CHANTLAND. May I ask a question?

The CHAIRMAN. Certainly.

Mr. CHANTLAND. You said the red (lower half of chart)[2] would go further down if refining and marketing were separated. Would it go down for refining or down for marketing?

Mr. HADLICK. Down for marketing, because in those years refining for some of those years was profitable.

Mr. AVILDSEN. Do you know why the figures aren't carried out for subsequent years, '35, '36, '37, '38?

Mr. HADLICK. No; I have some other information along this line from other companies that I will refer to to try to bring it down and I think the situation has been getting worse rather than better.

I also have a letter from Mr. Ryan I will read later explaining why that year was left out, 1930.

Mr. AVILDSEN. He doesn't explain why he didn't get later years? I mean, it would be more helpful to this committee to get some up-to-date information rather than ancient history.

Mr. HADLICK. That is right, but I was trying to show a trend and I will get into these later figures. I have some down to '38 with some of the companies that I will show you.

Mr. BERQUIST. May I ask you if the short bar on pipe lines, the shaded one, represents the percentage of investment in pipe lines as compared to the total industry?

Mr. HADLICK. That represents the percentage of 100, it would be roughly, I would judge, 9 percent.

Mr. BERQUIST. Then the bar alongside of it represents the ratio of the income from pipe lines to the total net income of the whole industry?

Mr. HADLICK. Yes; that is right. You see, you have profits here that would go far over 100 percent, but they are offset by losses here.

Explaining his chart in his article a little further, Mr. Ryan says:

> Data on earnings of pipeline companies are obtainable from their reports to the Interstate Commerce Commission. The data on the earnings of the production phase of the industry come from cost studies of the United States Tariff Commission from 1927 to '28, and from the Petroleum Administrative Board from 1931 to '34.

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[1] Included in "Exhibit No. 1211," appendix, p. 9151.
[2] The original chart was done in colors.

The CHAIRMAN. Mr. Hadlick, I am wondering why in this chart to which you have just been referring refining and marketing are considered as one division of the industry instead of two.

Mr. HADLICK. I cannot explain that, except that I presume his figures on the companies that he took could not be broken down; in other words, he couldn't break the figures down. He was an outside marketing engineer, or sales engineer.

The CHAIRMAN. Now the members of your association, for the most part, I take it, are not engaged in refining.

Mr. HADLICK. That is correct.

The CHAIRMAN. You represent a 100-percent marketing division.

Mr. HADLICK. That is right.

The CHAIRMAN. So that for the purposes of showing the profits or losses of the independent, this chart is worthless.

Mr. HADLICK. That is right, except it does show the losses of the integrated companies, and leads up to the story I am going to tell of the competition we are facing.

The CHAIRMAN. Does this purport to be a chart representing the investment and the profits of the integrated companies only?

Mr. HADLICK. That is right, this covers the integrated companies only.

The CHAIRMAN. I see. Then that is the explanation why refining and marketing is regarded as one item.

Mr. HADLICK. Yes, sir.

The CHAIRMAN. Nevertheless, if they were divided, that is, the investment and the profits, or the income in refining and marketing were divided, it would be a much more illuminating chart.

Mr. HADLICK. That is right. You can understand the difficulty we have in trying to get figures from integrated companies. I have some reports here that I will refer to later, particularly the Standard of Nebraska, which is a 100-percent marketing company, or was until its absorption by the Standard of Indiana. They prove very illuminating for a number of years. The same is true of a number of companies like the Standard of Pennsylvania or the Colonial Beacon.

The CHAIRMAN. Nevertheless, I am not very much of a mathematician and I am still having difficulty with this chart. I understood it to be prepared for the purpose of showing the ratio of, let us say, investment—let's deal with the profits, the ratio of profits of each of these branches to the total. Take the pipe line chart. That would appear to indicate that about 82 percent of all of the profits for the whole industry are obtained from the pipe lines.

Mr. HADLICK. That is correct.

The CHAIRMAN. Is that right? By the pipe lines?

Mr. HADLICK. Those are his figures; yes, sir.

The CHAIRMAN. And it would appear that 120 percent is obtained by production.

Mr. HADLICK. That is right.

The CHAIRMAN. Now, if I add the profits of the pipe lines to the profits of production I have 202 percent.

Mr. HADLICK. Then you deduct your losses in refining and marketing.

The CHAIRMAN. That leaves the hundred.

Mr. HADLICK. That leaves the hundred.

The CHAIRMAN. I see; all right.

Mr. HADLICK. I would like to continue this little explanation. I think it will clear the matter up. Mr. Ryan says:

This table shows that for a period of 7 years for which data are available, the production and pipeline divisions of the oil industry produced on the average more than twice the total annual net profits of the industry. The refining and marketing divisions' losses cut these profits in half. In other words, if the refining and marketing divisions could operate merely on a break-even basis the oil industry's profits would be more than doubled. These tables indicate that for the period shown the pipeline division, having only 7.1 percent of the industry's investment, produced 86 percent of the industry's total final net profits. The production division, having 42.7 percent of the investment, produced an additional 120 percent of the final net profits, giving a grand total of 206 percent of the industry's net profits, and the refining and marketing divisions, having 50.2 percent of the investment on the average, produced a loss equal to over 106 percent of the industry's final net profits. These data cover 5 good years, 1927, '28, and '29 and 1933 and '34, and 2 poor years, 1931 and 1932, and come from sources deemed to be reliable. In 3 of these 5 good years the refining and marketing division showed a loss, production showed a loss in 1 year, and the pipe line in none.

Mr. SHAUGHNESSY. Mr. Hadlick, I have been looking at the tabulation, which accompanies this table in your statement,[1] of the income of the petroleum industry by division and by years, and I was wondering what financial statements of the oil companies were available on which that tabulation might be based.

Mr. HADLICK. I don't know, but he says in his chart: "Data through courtesy of Young Management Corporation, New York, 'Oil Attains Prosperity.'" I assume they had fairly good access to most of the records, most of the annual reports.

Mr. SHAUGHNESSY. I know that in the final statements filed with our Commission there is no break-down between production, refining, transportation, and marketing. I was wondering what other financial statements were likely to be available. We haven't found the companies gratuitously publish financial information.

Mr. HADLICK. I can only offer it, Mr. Shaughnessy, for what the author states it to be. I believe it to be correct, as near correct as could be possible under the circumstances.

As I pointed out, getting this information is difficult. As Mr. Shaughnessy has pointed out, the Securities and Exchange Commission does not even get the break-down, so we have to depend for our information mostly in recent years on admissions against interest, admissions that they make because there is no other way around it. I have here a prospectus of the Texas Corporation, I understand filed with the Securities and Exchange Commission, February 5, 1937. That contains a paragraph by Mr. DeGolyer, who was apparently employed to make a report on the company. It says:

While both domestic- and foreign-marketing operations considered as departments have shown losses in each of the years 1930 to 1935, the marketing operations of the corporation's subsidiaries are in my opinion as good as or better than average good practice in the industry. Costs of marketing are low, and the marketing departments, both domestic and foreign, have performed well their primary function of providing assured outlet for the products of the corporation's subsidiaries and thus permitting them to operate broadly in the other branches of the oil industry.

[1] Ex. No. 2 of "Exhibit No. 1211," appendix, p. 9156.

I couldn't give you a better picture of the thing the independent jobber is facing than that statement there, where he says that—

> The costs of marketing are low and the marketing departments have performed well their primary functions of providing assured outlet for the products of the corporation's subsidiaries and thus permitting them to operate broadly in other branches of the oil industry.

The CHAIRMAN. Whose statement is this?

Mr. HADLICK. This is from a prospectus of the Texas Corporation on file with the Securities and Exchange Commission. It is the report of Mr. DeGolyer on the condition of the company.

Mr. COX. The same DeGolyer who testified here?

Mr. HADLICK. I understand it is; Mr. E. DeGolyer, Continental Building, Dallas, Tex.

It starts out—you were not here, Senator [reading]:

> While both domestic and foreign marketing operations considered as departments have shown losses in each of the years 1930 to 1935—

and he goes on to state that it is a satisfactory function in the industry because it serves these other departments.

Mr. CHANTLAND. He follows it thereafter differentiating between the Texas and the others.

Mr. HADLICK (reading):

> The costs of marketing are low and the marketing departments both domestic and foreign have performed well their primary function of providing assured outlet for the products of the corporation's subsidiaries—

and so on. I see what you mean.

> And in my opinion as good as or better than average good practice in the industry.

Mr. CHANTLAND. Better off than the average.

Mr. HADLICK. That is right.

There is another prospectus on file with the Securities and Exchange Commission by the Pure Oil Co., August 30, 1937. This statement appears [reading]:

> Under conditions existing in recent years marketing operations considered as a separate and distinct activity without regard to earnings from collateral operations and based upon the acquisition of refined products by the marketing divisions and subsidiaries at no allowance for published wholesale market prices show substantial losses, with the result that the company's consolidated net earnings have been substantially less than they would have been had it been possible for the company to sell its crude oil products as such at posted prices or as refined products at full published wholesale market prices.

The CHAIRMAN. Now, the purpose of these quotations is to sustain the showing on the chart that in refining and marketing these companies sustained heavy losses?

Mr. HADLICK. That is right; and to carry it beyond the date of that chart, '34. We have '35, and now '36 and '37, and I will proceed to a couple of others. You understand how difficult it is to get these unless you find an admission against interest. I was in hopes that this committee would secure the information from the companies direct.

Mr. COX. If I may, it might be well to point out here that the questionnaire which was circulated by the committee was designed in

part to obtain that information. We did obtain it from some companies, but an appreciable number of companies refused to give us the information either on the ground that they couldn't know what their costs were or on the ground that the information would be meaningless to us. So that our information on this score is likewise a little incomplete. It is very difficult, I will say in fairness to Mr. Hadlick, to avoid giving ancient history on this point.

Mr. HADLICK. I have here the correspondence in connection with the stockholders of the Standard Oil Co. of Nebraska, sent out by that company prior to the merger or the consolidation or absorption of that company by the Standard Oil Co. of Indiana. The Standard Oil of Nebraska was entirely a marketing unit. It was as close to the operation of a jobber as one could find, yet it operated over the State of Nebraska. It unquestionably had more favorable buying arrangements than the average jobber because of the volume that they purchased. Yet for the period 1932 to '38, each year was operated at a loss except the year 1936 when they made $10,000. I will give you those figures in round numbers: 1932 they lost $270,000; in 1933, $349,000; in 1934, $641,000; in 1935, $81,000; in 1936 they made $10,000; in 1937 they lost $133,000; in 1938 they lost $138,000.

I hope you will bear with me on these figures because they are the best we are able to gather and I am trying with them to show you the competitive situation that we are facing.

Representative WILLIAMS. What became of that company? Did it continue to operate with that kind of a loss, consistent loss year after year?

Mr. HADLICK. No; the fact of the matter is that is perhaps why they have merged with the Standard of Indiana. I don't know the reasons. They give this statement along with the request for proxy. As I point out, they had someone to lean against and to fall to. The stockholders were taken care of in that company. They got $17.50 per share of stock, quoted shortly before that as low as 6⅞. But it is very clear that that company couldn't continue operating year after year with those losses. It is just axiomatic, no matter how much they had in the reserve.

The statements I believe are all here. Maybe I am not sufficient of an analyst to go into them, but I have them here if any of the committee would like them.

Representative WILLIAMS. Where did they get their products?

Mr. HADLICK. As I recall, they all came from the plant of the Standard of Kansas. There might have been some instances in western Nebraska where the products came from Casper. That is just my best information. I have no way of knowing exactly. I never saw the tank cars delivered there, but that is my observation.

Representative WILLIAMS. The point I had in mind was whether they had an exclusive contract with some of the major companies for the delivery of the products to them as a jobber.

Mr. HADLICK. I believe they had an exclusive contract with the Standard of Indiana. They handled the products under their own brands; with the exception of lubricating oils, they carried the old Polarine brand of the Standard of Indiana.

The VICE CHAIRMAN. With whom were they in competition in the distribution of oil in that territory?

Mr. HADLICK. In Nebraska? They were in competition with the bulk plants of both jobbers and the bulk plants of Independent refiners and the bulk plants of other major refiners. I believe I can safely say that Texas, Sinclair, Champlin, Skelly, Continental, perhaps some others, all operated in Nebraska; Socony-Vacuum.

The VICE CHAIRMAN. We had some testimony here to the effect that while other activities of these oil organizations would make money, they lost money in sales.

Mr. HADLICK. That is the point I am trying to make here.

The VICE CHAIRMAN. Is it general in the business that they lose money at the selling end?

Mr. HADLICK. Sir, I believe it is in the marketing end generally east of the Rocky Mountains, as to the integrated companies. Our members——

The VICE CHAIRMAN (interposing). Why don't they surrender that then to independent people or somebody else who won't lose money?

Mr. HADLICK. You are asking me for a conclusion which I was trying to leave the committee to reach. We are in the position of presenting to you what we believe are facts showing losses in marketing that we cannot year after year go up against, and we believe it is an unnecessary crowding of building and of sales efforts in the marketing end. I will show you later where one company has a 3-cent marketing cost, the wholesale cost, yet we are expected and must operate on one and a half to two and a half, depending on the territory.

The CHAIRMAN. Your theory, I take it, is that the integrated companies are able to make such profits upon production and transportation that they are able to, and do, market these products to the general people at a loss, and as a result thereof the independent jobber is finding himself in increasing difficulties?

Mr. HADLICK. That is exactly right, Senator. That is exactly right.

Now, over in the House side we had a hearing.[1] Mr. Brown,[2] of the Socony-Vacuum, said:

> In New York and New England, where our company was the first general marketer in the oil industry, we had approximately 36 percent of the gasoline business in 1929 and only about 24 percent in 1938.

Now, the figures submitted by Mr. Farish, of the Standard of New Jersey,[3] which owns the Colonial Beacon, show that for the years 1930 to 1937, the Colonial Beacon lost money each year. Roughly, the figures are: 1930, $2,000,000; 1931, $860,000; 1932, $1,668,000; 1933, $2,415,000; 1934, $2,547,000; 1935, $3,068,000; 1936, $3,191,000; 1937, $974,000.

Mr. CHANTLAND. Where does Colonial Beacon belong?

Mr. HADLICK. They operate in New York and New England.

Mr. CHANTLAND. What system?

Mr. HADLICK. The Standard Oil Company (New Jersey) or of New Jersey; I haven't got it quite straight.

I point out there is price competition between two of the old Rockefeller group, the one losing some of its gallonage, the other

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[1] Hearings held by Subcommittee No. 3 of the House of Representatives Judiciary Committee pursuant to H. R. 2318, 76th Cong., 1st Sess. Representative Healey (Massachusetts), chairman: "To divorce the businesses of production, refining, and transporting of petroleum products from that of marketing petroleum products."

[2] John A. Brown, president.

[3] Submitted during the hearings cited in footnote 1. Mr. Farish's testimony before this committee is included in Hearings, Part 17.

buying it in and the jobber caught in the middle. As I said to the House committee, "Caught in the jaws of the giants has been the independent marketer."

The figures in that same hearing give similar figures for the Standard Oil Company of Pennsylvania, losses ranging from $284,000 to $1,700,000. Losses for the years 1930 to 1935 of the Standard Oil of Louisiana, and a slight profit in '36 and '37.

Now I come to a statement sent out by Barnsdall Oil Co., September 5, 1939. That is a report to the stockholders in which they apparently had a disagreement with the authorities of the New York Stock Exchange. In fairness to them I perhaps should read all of it. I am not trying to be critical of their situation, but the position is this: A number of years ago, probably three or four, Barnsdall Oil Co. set up its crude oil and its pipeline companies as one. It set up its refining and its marketing companies as another, and took in return notes and preferred stock which it has held in its treasury, thinking eventually to turn it over to its stockholders and accomplish a divorcement of refining and marketing from production and pipelines. It shows how futile such an effort is on one company's part, because the Exchange disagrees with their accounting system and the value placed on these notes. To give you the operation of the Barnsdall Refining—now we are talking of the refining and marketing—Co., for the years 1936, '37, and '38, are as follows: The operating loss for the year 1936 was $101,533.10, to which was added depreciation of $616,733.97. The operating loss for the year 1937 was $233,195.62, to which was added depreciation of $637,163.04. The operating loss for the year 1938 was $796,008.53, to which was added depreciation of $636,510.31.

I point those out as instances that we can get our hands on. I wish this committee, before it suspends on oil, would make it a point to find the true picture as between refining and marketing, but we are—the independent jobber is—in a deplorable condition when it comes to operating year after year. As I pointed out in my general statement, I believe the independent jobber can operate more cheaply than a major company in the distribution of products. I would roughly estimate that as being 20 percent cheaper. The fact that he stayed in business, the fact that during these years, '27 to '34, the jobbers had what we called fair prosperity, and yet they lost money in the marketing, serves to prove my point.

The Chairman. In other words, you feel that if the jobber were not pressed as you apparently believe he is being pressed, by major companies marketing at a loss, he would still be able to market at a profit without impairing the position of the consumer?

Mr. Hadlick. That is right, absolutely.

The Chairman. Now that is a very important point to develop. Thus far you have indicated that the major companies conduct their marketing operations at a loss, and that by reason of that loss, they are crowding the independent jobbers whom you represent.

Mr. Hadlick. That is right.

The Chairman. That must mean that the independent jobbers find it difficult to meet the competition of the major companies. Now if that is a price competition, then it necessarily follows either that the price of gasoline to the consumer is not high enough, or that price of gasoline as purchased from the refiner is too high.

Mr. Hadlick. It is a case of the price of the refiner being too high, the economic structure up to that point being too high for one thing, but forgetting that, leaving that structure as it is, if they will reduce their expenses of marketing to ours, without any increase in our margin, we will make money, because that means closing these bulk plants that are in the horse range district and aren't economical. It means closing filling stations; quit subsidizing new palaces. We had an experience here in the District of Columbia; the Gulf Refining built 30 new stations, swept the ground clean, threw in, I think, five or six million dollars. They have the same gallonage, just a trifle more, but it is competition. Those stations cost thirty to fifty thousand dollars.

The Chairman. Then you seem to be indicating that the majors are competing so strongly among themselves in the construction of new stations and in concessions of the kind which were described here on Saturday that they are losing money and that they are handling this phase of the business in an uneconomic way. Is that your conclusion?

Mr. Hadlick. They are handling it in an uneconomic way, that is true. Now the pinch comes when we find two of these giants—and I mean no insult to them, they are large; the Standard of New Jersey is a $2,000,000,000 company, the Socony Vacuum is a $1,000,000,000 company. When one of those decides to go into New England and the other decides not to let them, they crowd, as the Colonial Beacon did all these things Mr. Swensrud mentioned, to get business. As I have shown in my statement, the thing never worked until they found proration and until they found a way of buying the little gasoline that the independent refiner had and moving this bottom up, and there the jobber is caught.

The Vice Chairman. The jobber is caught between the fire of the two big companies, so to speak. They are supposed to be shooting each other but you are between the two and get the shots from both.

Mr. Hadlick. That is right, and as I say, in the final analysis we consider them just the same company.

The Vice Chairman. They are hurting you just the same whether you are shot in front or in behind.

Mr. Hadlick. You are just as dead as if you were right.

I really think Mr. DeGolyer evolved the philosophy of the major companies when he said the marketing is a dumping ground. You have to go out and buy it; you have to pay what it takes to get the market, and as I conclude in my statement, eventually the consumer is going to pay for that, once competition is eliminated. Price competition is becoming less and less effective in this industry, that is price competition between bona fide competitors. The jobber isn't going out of business in the sense that his plant is closed up and there is a sign on it, "For sale by the sheriff." It goes out of business like Mr. Swensrud said about the Red Indian oil in Detroit. When the major companies pulled the Sunny Service deal, it practically broke all the jobbers up there. They were financially embarrassed and they run to their supplier for money and they get $100,000, and then they can't pay it back and they take stock; it is just a gradual trend. The plants are still there; in many instances they have the word "independent" connected with them, but they are agents of the refiner.

Now you carry that to a point, as it has been in your State, Senator,

in Wyoming, where jobbers are few and far between, and you have a stabilized and higher price. At a later time in my statement I would like to go into that whole subject of basing points and prices in the independents. I prefer not to get off on it right at this time because I want to continue this matter of margin. And when I mention margin, margin is a relative thing. We can get along on 2 cents a gallon margin if the others are on that. The best example of that is that in heating oil distribution the margin is very low because no one has crowded a lot of facilities into it. They are beginning to crowd it, and heating oil, if it carries its own weight, is going to have to carry a higher marketing cost. A margin of 6 cents a gallon wouldn't be adequate if your competitor is spending 12. It is a question of how many salesmen you are putting on the street, what services you are giving the consumer; that is what the margin it takes to operate depends on.

We believe we are equipped to operate economically. We are being forced more and more to put more and more money into marketing, so our costs are going up and the majors are still exceeding it. I would say the average in the country of the major oil companies would be better than 3 cents a gallon on what we call the wholesale market, and I would say the average for the jobber is less than 2 cents. There is a disparity of 33⅓ percent in gross operating margin. It is something you just can't overcome for a great length of time. Fortunately, these jobbers own their own business; they can hang on for a long time if they have to, but when on top of that is thrown in a local price war, as I will show you in some of the charts later, he has to throw up the sponge because his outgo is more than his income.

Representative WILLIAMS. What percentage of the entire product do these independent jobbers handle?

Mr. HADLICK. Oh, I used the figure in there, 50 percent east of the Rockies. That is a figure that I have talked with trade publications about, and they agree upon. It includes a great deal of fuel oil going through the so-called coal dealer, who is also a jobber of that product. The trouble is that it is getting less and less because more and more of these people are becoming agents of the major companies, controlled by them. Therefore, for all purposes you couldn't say they were independent. If a man has to take the money he gets in at the end of the day and deposit it to the account of his supplier, and can't give credit except to the people he says he may give credit to, I wouldn't say he was an independent merchant. I would say he was an employee. But they have gotten around that by saying he is not an employee, he is an agent. So I think part of that leasing and control that way is to get away from a great many of these other expenses. Maybe their cost of marketing is coming down; I don't know; it should be, but in the market we are still feeling it.

Representative WILLIAMS. From whom do these independent jobbers get their products?

Mr. HADLICK. Oh, they buy from anyone from the Standard Oil Co. of New Jersey on down to the smallest tea kettle you can find in the country. They buy sometimes for distribution under the refiner's brand, or a brand that that refiner authorizes them to use, or sometimes under their own brand. In our association we have jobbers who buy products from the Jersey, who buy products from the

Shell, from the Pure, from the Continental, from Texas, and Sinclair, and practically all the independent refiners.

Representative WILLIAMS. Do they buy from a major company, one of the integrated companies, and then at the same time does that same company set up a bulk station in competition with them, side by side in the same area?

Mr. HADLICK. As a rule not. There are instances. There was a time, for instance, when Continental Oil had nine distributors of Continental products in Denver, plus their own distribution, but I don't think that is the general rule. As a matter of fact, it perhaps is not good business, for one thing, to sell a man who handles your brand and sell him as a jobber and then be in the jobbing business yourself too. But take the case of the Jersey; out of Baltimore you can buy gasoline from them in tank cars. You can sell under your own brand name or sell under the name of Spartan, which they have set aside for the use of jobbers, but they wouldn't let you sell Esso.

Representative WILLIAMS. As a rule, then, you are not in competition with the same company from which you buy, but you would be in competition with some of the other integrated companies in the same locality, with the same result.

Mr. HADLICK. That is right.

Now, in this connection there is an article in the June issue of Fortune magazine that sheds some light on this question of the Continental Oil Co. I believe that is a Morgan-financed organization.

It says:

In building the line—

this is the Great Lakes Pipeline—

"Continental and its five collaborators put up a total of $5,500,000. The Guaranty and other bankers supplied an additional $8,000,000, and with this $13,500,000 pledged, work was started. The project when completed cost $26,000,000, but half of this was financed out of earnings. Continental owns a 29-percent interest in the Great Lakes Pipeline Co., and from 1933 to 1938 inclusive it has received a total of over $8,000,000 in dividends. This is nearly one-fifth of Continental's net earnings for the period. Those spectacular dividends, however, are subject to qualifications. For in great measure they do not represent a straight net to Continental. They have been largely offset by losses suffered by its marketing division in expanding its operations in the Chicago and North Central areas. Take, for example, 72-octane gasoline moving up to Chicago today. The wholesale price (tank-car price) per gallon of this gasoline at Ponca City is about 4¾ cents. Roughly, at this price the Ponca refinery transfers the gasoline to the company's marketing division which then becomes responsible for its distribution. In the case of Chicago sales, the marketing division pays over to Great Lakes Pipeline a 2.64-cent transportation toll and at the Chicago end either sells the gasoline to a jobber or handles the distribution all the way to the filling station. If the marketing division does the job, it must get a spread of at least 3 cents to cover maintenance of storage bulk plants, gasoline trucks, and for general expenses.

That is 3 cents that they must get, yet they will give the jobber in the Chicago area 2 cents or less. Gasoline now goes to the filling station at what is called the tank-wagon price, and the dealer wants a spread of at least 4 cents to make a profit. There are some other interesting facts. I don't want to bore you.

Then he goes on [reading]:

The fact is that regular gasoline is being retailed in Chicago at approximately two cents below that level, partly owing to a gasoline station price war, fundamentally owing to the fact that the opening up of crude production in Illinois has tended to depress prices in the Chicago area. As a result, Conti-

nental's merchandising department sacrifices part of its three cent margin, and is losing on every gallon of gasoline going into Chicago, but part of that loss gets sluiced back to the company through Great Lakes Pipeline dividends, and from Continental's point of view both loss and gain are purely bookkeeping. If Continental owned Great Lakes Pipeline outright, it might operate it at cost. Whereupon, there would be no pleasant profit item appearing on its books from ownership of the line, nor would there be a loss chalked up against its merchandisers. Over a period of years, Continental figures that dividends from the pipe line have about equaled bookkeeping losses of its marketing division. This, of course, does not quiet the shrieks of the small mid-west refiner who has no pipe line to get him into Chicago, nor does the policy of treating pipe lines, refining and marketing as one operation, console the gasoline jobber. Where gasoline prices are falling he is subject precisely to the same kind of squeeze as the marketing division of an integrated company, but he has no compensating income from refineries and pipe lines to make good his losses. Hence, the continual agitation for divorce of all pipe lines from the major companies.

The VICE CHAIRMAN. May I ask you this question? Do these major companies sell to jobbers at the same price that they use in their set-up, in their sales to their own distributors?

Mr. HADLICK. I can't answer that definitely. It is apparent that they don't, that the Continental does not, because they are not giving jobbers in the Middle West 3 cents a gallon margin and they are using a 3-cent cost for their marketing division.

The VICE CHAIRMAN. Specifically you mentioned, as I recall, a price of 4½ cents in the Chicago area.

Mr. HADLICK. That is right.

The VICE CHAIRMAN. Can independent jobbers buy that gasoline at 4½ cents?

Mr. HADLICK. That is right, but they must pay 2.64 cents freight rate, almost 2.75 cents a gallon freight rate.

The VICE CHAIRMAN. Then does the major company, I mean the company you mentioned, charge that same freight rate against its own distributing agency?

Mr. HADLICK. I believe they do.

The VICE CHAIRMAN. Then that would be the same price in the set-up.

Mr. HADLICK. That is right, except they have these profits to come back to offset.

The VICE CHAIRMAN. I know, but I am just talking about selling. Do you know whether or not—I believe you said you do not know whether or not it is the custom of these integrated concerns that have their own selling agencies, to sell to independent purchasers at the same price that they charge against their distribution.

Mr. HADLICK. I don't think it is a general practice; no.

The VICE CHAIRMAN. What is? Do they in their system of bookkeeping charge to their distributing agencies this gasoline at a cheaper or a higher price than they sell to the independent distributor?

Mr. HADLICK. I would say at a cheaper price.

The VICE CHAIRMAN. To their own agency?

Mr. HADLICK. To their own agency.

The VICE CHAIRMAN. Is it an important factor in the price?

Mr. HADLICK. Is it important?

The VICE CHAIRMAN. Yes. Here is the point of my question. If they sell to their own distributing agency at a cheaper price than they

sell to the independent distributors and still lose in their bookkeeping arrangement, I mean still lose in their distribution, it would seem that their distribution is far more expensive than is the distribution cost of the independent agency. It seems to me that is rather an important point in this inquiry.

Mr. HADLICK. The difficulty is in breaking down that refining and marketing loss or investment. They treat the refining and marketing all together as one bookkeeping operation, as a general rule.

The VICE CHAIRMAN. Does that include their retail distribution as well as jobbing distribution?

Mr. HADLICK. In ordinary bookkeeping parlance, I think they keep one set of books for that operation.

The VICE CHAIRMAN. It doesn't seem very illuminating, then, if they combine their refining and distributing agency, in our attempt to investigate what is happening solely in distribution.

Mr. HADLICK. It is not illuminating, and I have said in the specific companies—as I pointed out, the Standard of Nebraska is the best example I can give you—that they are losing money in marketing, and I believe that to be the case generally. I wish this committee with the power that it has, if those books have to be taken down and taken apart and audited and found out, could find the actual fact on every company; I would like to know the actual fact on every company.

The VICE CHAIRMAN. What would be the advantage, if any, from the standpoint of the public interest of governmental responsibility, if it could be brought about, of having a system of bookkeeping that would indicate the relative cost of these activities, speaking, for instance, of manufacturing and distribution?

Mr. HADLICK. I think it would be very helpful. It would be helpful in our case either to determine whether we are working on a false premise or not; secondly, it would be beneficial to the stockholders to know whether they had a company that was operating principally on a profit margin over in another business which they probably should segregate or get new management for. That would principally be the public interest. I have long hoped that the Securities and Exchange Commission would try to secure that information. I know the companies will throw up their hands. As Mr. Pew said, they are trying to make a profit on the over-all operation. The profit on the over-all operation would be plenty large if you eliminate the independent refiner and independent jobber from this business. That is what is happening.

Mr. AVILDSEN. Mr. Hadlick, isn't it a fact that if the major companies withdrew from the marketing and turned all the marketing over to independent jobbers, that in the course of time they would be at the mercy of these independent jobbers? For instance, your clients are now willing to work on 2 cents a gallon. Wouldn't they later on raise the margin that they would require to work on? Wouldn't they extract a larger profit from the major companies if they had the power to do so?

Mr. HADLICK. If they had concerted power to do so they would be violating the antitrust laws. If they did not have concerted power then you have a competitive market. I don't visualize divorcement as being that you are going to get rid of the Standard string of sta-

tions in the District of Columbia, the Standard bulk plants in Maryland. They would naturally set up a marketing company, give it some assets, and say, "There it is, the stock goes back to the people that owned it." It would be the same kind of divorcement that you had when the Reading Railroad had to get rid of its coal mines, but I don't see that the fact that you would be creating a competitive market would make any difference there. Suppose the price through competitive or bargaining power were reduced at the refinery, it's competition. If it were illegal competition, that is a different thing.

DIVORCEMENT OF MARKETING RECOMMENDED FOR INTEGRATED COMPANIES

The CHAIRMAN. What divorcement do you recommend?

Mr. HADLICK. I am principally interested in divorcing of marketing. I do think that part of it might be accomplished by divorcement of pipe lines because it would take away these large profits that they have, but fundamentally I have been and our organization is principally interested in securing legislation such as the Harrington bill—the Gillette bill in the Senate—providing for the divorcement of marketing.

Mr. AVILDSEN. Mr. Hadlick, do your clients own their own trucks that they haul the gasoline around in, generally?

Mr. HADLICK. Speaking of the ordinary delivery system, yes.

Mr. AVILDSEN. Might we not be faced with another situation where the independent trucking companies who own trucks might say that the trucking ought to be divorced from the jobbing end?

Mr. HADLICK. You might.

Mr. AVILDSEN. Your clients don't trust the independent truckers; they buy their own trucks so they won't be held up on the trucking charge. I think that is a similar situation to the major companies wishing to own their own marketing organization.

Mr. HADLICK. Well, I don't see the similarity. I appreciate that the custom in the trade is to deliver gasoline by truck within reasonable delivery areas.

Mr. AVILDSEN. But they won't turn that over to another middleman, another man to do that trucking, they want to do it themselves.

Mr. HADLICK. In the case of this long distance trucking that has developed, that has been turned over to common carrier truckers. That was the reason——

Mr. AVILDSEN (interposing). But the local delivery is done by their own trucks.

Mr. HADLICK. That is right. In other words, that is a plant facility just like the pipe line that carries from one still to another is a plant facility, but to say that a common carrier truck line from New York to New Orleans or a pipe line from Houston to Bayonne is a plant facility is just the height of ridiculousness.

The VICE CHAIRMAN. Unless you do permit the producers to build pipe lines, independent people would hesitate to go into a field where it has to be proven.

Mr. HADLICK. Well, I would prefer to let the producers and those interested principally in the crude lines answer that. The fact is, as I look at it, that there will perhaps in the future have to be lines torn up; we have to tear up some railroad tracks occasionally. As a matter of fact, we might be better off if we tore up a fifth of the

mileage today. If there is a pool discovered, there are plenty of transportation mediums, tank truck, tank car, and those have been the mediums that always precede the pipe line, and you can go to a bank and show them: Here is a plat and there is a proven field and it is going to produce so much oil, and anyone could get the money, just the same as people could borrow the money to build the railroads, but I do say I am principally interested in the gasoline pipe line which is charging the rate of the rails for the delivery of their products.

The CHAIRMAN. Isn't that an assumption to say that anyone could get the money to do that?

Mr. HADLICK. Maybe it is a broad assumption, Senator; maybe I couldn't.

Mr. AVILDSEN. Mr. Hadlick, have you any reason to feel that the Interstate Commerce Commission will not bring about a reduction in those gasoline pipeline rates if, as you claim, they are making exorbitant profits? Have you any reason to feel that the Interstate Commerce Commission, when it finishes its present investigation, will not bring about a reasonable rate for those gasoline pipe lines?

Mr. HADLICK. Do you promise not to toss me out if I answer that frankly? I don't think so.

Mr. AVILDSEN. Why?

Mr. HADLICK. Simply on the basis that the railroad rates established have been dictated by the major oil companies from time immemorial. I tried one of those cases; it is still in the courts; I started it on July 15, 1925, to get a rate reduced from group 3 to North Dakota, and, boy, it is worth your life to get anything out of that commission other than what the railroads and the major oil companies want. That is not my purpose in being here. I want to have this frank. When you find that a pipe line runs from Oklahoma to Minneapolis hauling gasoline, taking it away from the railroads, they will not meet that rate and yet a mythical pipe line is going to be laid between Superior, Wis., and Minneapolis, and they will cut the rate in half; I can't have confidence that the railroads are going to do anything but what the Standard Oil Co. or the major oil companies want them to do, and I think the Interstate Commerce Commission, not because it wants to do that but simply that they haven't got the facilities and the help to keep up with it, I don't think they are doing the job.

Mr. CHANTLAND. Mr. Hadlick, on the point that Judge Sumners asked about, the difficulty and the desirability of breaking down your refining and marketing costs, didn't you tell me earlier that if that pink line of loss on the chart that you had there were broken down or could be broken down between the refining and the marketing end, as a marketing thing it would show more loss?

Mr. HADLICK. That is my best judgment. It is true some of those years covered the refiners lost money, but I would say on the whole they made money and made more money in the profitable years than they lost in the other years, I mean taking the refining operating alone.

Mr. CHANTLAND. I imagined Judge Sumners was trying to get at the fact as between the two.

Mr. AVILDSEN. Mr. Hadlick, getting back to this Interstate Commerce Commission, I don't think it is entirely clear [illegible]

you think will happen. First you say that they will not bring about a reduction in these gasoline pipeline rates because the railroads don't want to do anything that will displease the oil companies, the major oil companies. Is that right?

Mr. HADLICK. That is right.

Mr. AVILDSEN. In the next breath you say that the I. C. C. can't do a good job because it isn't equipped to do a good job. Those two statements don't seem to jibe. Which do you mean? Do you mean the I. C. C. can't do a good job or the I. C. C. doesn't wish to do a good job?

Mr. HADLICK. Let's put it this way. The I. C. C. haven't done a good job. I don't think they will do a good job.

Mr. AVILDSEN. What basis have you for saying that they will not do a good job when they have publicly stated that they are making a thorough investigation of gasoline pipe-line rates; that they invite everybody to come in and tell their story, to bring in their complaints, and they will then make a thorough investigation of the whole subject, review all the rates, and make adjustments in those rates where adjustments are indicated?

Mr. HADLICK. Simply on the basis of past history. Let me tell you about this rate case I got into, and I wish I never had. We tried to bring the rate from group 3, which was 70 cents a hundred pounds, down, from group 3 to Fargo. The rate to Willmer, Minn., 175 miles away, was 43 cents a hundred, ridiculous on its face. It took us 4 years to get that rate down. The next week the Standard of Indiana apparently saw the railroads on the rate from Casper, which was 70 cents to Fargo. The railroads filed tariffs, 62 cents a hundred from Casper. Those tariffs went into effect over our objection, promptly. I could enumerate a number of other instances. The jobbers brought a case on the weight of gasoline. Gasoline weighs by the hydrometer, by the scale, by any kind of measurement of a liquid that you want to use, about 5.9 pounds per gallon. It is billed in every railroad in the United States as 6.6 pounds per gallon. A case was brought; it was heard; the major oil companies protested any change. The Interstate Commerce Commission endorsed that and said 6.6 was the weight of gasoline. We are paying 10 percent more freight rate on a weight that doesn't exist. They asked for reargument—reargument denied.

The VICE CHAIRMAN. Mr. Hadlick, from your standpoint with reference to transportation cost, what would be the difference under railroad control, as you have indicated in the price of service of the pipeline companies, and the situation if they were divorced, as far as rates are concerned?

Mr. HADLICK. I would judge, taking that line from Oklahoma to Minneapolis, it would be about a cent a gallon, whereas the freight rates are close to 3 cents, or right around 3 cents.

The VICE CHAIRMAN. What would be the reason, then, for the rates being reduced merely because the pipe line was divorced from ownership of the major companies? The railroads would be in just the same, regardless of whether the major companies owned the line or the independent, wouldn't they?

Mr. HADLICK. I don't know what you are going to do with the pipe line profits. I am, I say, interested in transportation.

The VICE CHAIRMAN. Can you answer my question?

Mr. HADLICK. I don't know whether I understood you.

The VICE CHAIRMAN. Let me take another try at it. It looks like to me it is a pretty clear question. From the standpoint of what it would cost to transport oil over the pipe lines, what would be the difference if that pipe line was owned by independent ownership rather than by these integrated companies?

Mr. HADLICK. Well, there shouldn't be any difference in cost, except——

The VICE CHAIRMAN (interposing). I am not getting it across, I am afraid. As I understand your statement, it is that the rate charged for transporting crude oil, maybe gasoline, over the pipe lines that are owned by these oil companies is largely controlled by railroad influence through the Standard Oil Co.

Mr. HADLICK. No; the railroad rates are controlled by integrated company influence, and where they have a pipe line the railroads do not reduce the rate, but where they are going to build or threaten to build a pipe line the rates are reduced.

The VICE CHAIRMAN. Then take it on that explanation; what would be the difference, in that situation between pipe lines that were independently owned and pipe lines that were owned by oil companies, major companies?

Mr. HADLICK. From our standpoint?

The VICE CHAIRMAN. Anybody's standpoint; the standpoint of the rates over the pipe lines, or railroads, either.

Mr. HADLICK. I don't know that there would be any difference in the rate, but from our standpoint it would simply mean these profits would not be siphoned back——

The VICE CHAIRMAN (interposing). I understand; I am just dealing with the one question of rate, either on the railroad or the pipe line, as between independently owned pipe lines and pipe lines owned by oil producers.

Mr. HADLICK. Probably no difference.

The VICE CHAIRMAN. I can get your point that by reason of the profits in the operation of their pipe lines they can shift those profits to other activities where they come in competition with you and drive you out of business by using profits made in something that you are not engaged in. I can get that point, but my point was with reference to the transportation costs.

Mr. HADLICK. I didn't mean to get into this transportation very much. There is just one other point along that line. Down in Kansas, the common-carrier trucks developed a big business. Jobbers sometimes as far as 700 miles from the refineries either built or bought trucks, but in most cases employed a common carrier truck to haul gasoline, but principally that was confined to an area beginning with Springfield and Joplin, Mo., on the east and running into Colorado. That was actual competition from trucks. There is where the hotbed of competition was. In other words, people other than the major oil companies were beginning to get a part of the transportation profit and also to pass it along to the consumer. The railroads filed tariffs reducing the freight rates 35 percent not over 30 days ago. That was to the integrated companies' interest, to have these rates reduced, so that everybody was on a parity in delivering gaso-

line, but when the plea of the independent refiners of North Texas and Oklahoma and Kansas for a rate to Minneapolis that will compete somewhere near the pipe line was made, they were practically laughed at. They turned it down cold here after a meeting in St. Louis late in August. They couldn't do anything about it.

Mr. CHANTLAND. Mr. Hadlick, if the pipe lines were divorced so the second column of your chart[1] showed pipe lines by themselves, do you believe the Interstate Commerce Commission would prevent that percentage of profit on that amount of investment?

Mr. HADLICK. No; I think, just my personal opinion is if you ever had that situation arise to protect the railroads, which they seem anxious to do, they would ask Congress to revive some kind of a pooling of profits arrangement and take the profits from the pipe lines, leave the rates high and take the profits to pull these railroads out of the mud. I don't think they would allow that profit, nor do I think they would allow them to reduce their rates to further cut under the rails.

Mr. AVILDSEN. Then you think nothing would be gained by divorcement?

Mr. HADLICK. I am just giving that—that so far as reductions to the consumer are concerned, we would be gaining, yes; because the profit would not be siphoned back into marketing. That is the thing we are complaining about on pipe lines. We do have a complaint on the gasoline pipe lines; that we can't use them. If you take a box over here to ship to Chicago, you take it over and dump it on the platform. If there isn't a boxcar ready they put it in the warehouse. They can't do that at these places. You have to build terminals yourself.

The CHAIRMAN. There is no universal rule you can lay down with respect to the comparison of railroad rates and pipeline rates; is there?

Mr. HADLICK. No.

The CHAIRMAN. And in some cases the railroads have refused to reduce their rates and as a consequence the pipe line has been constructed.

Mr. HADLICK. Yes.

The CHAIRMAN. In other cases the railroads have reduced their rates and pipe lines have not been constructed.

Mr. HADLICK. Yes.

The CHAIRMAN. So is it not the inference there may be other conditions at work than any we have mentioned here this morning?

Mr. HADLICK. Quite likely, Senator. I want it understood, my main interest is to see that the profits from pipe lines are not used over here in marketing.

Now I just quoted you one——

The CHAIRMAN (interposing). Yes; I know that is your premise.

Mr. HADLICK. That is my main thesis.

The CHAIRMAN. But you brought up in response to a question by one of the members of the committee this very interesting subject of the interrelation of railroad pipe lines and of railroad freight rates and pipeline transportation charges, and I am asking you the question whether from your experience you can draw any definite con-

[1] Exhibit No. 1 included in "Exhibit No. 1211," appendix, p. 9155.

clusion to establish a universal rule, and I understand your answer to be "No."

Mr. HADLICK. That is right. I apologize for the condition of a lot of this statement. I am merely trying to bring forth what I have been able to find in the hope that you gentlemen will give us an answer: Whether it is pipeline divorcement or marketing divorcement, or what it is. My type of people are going out of this business, or are on the way to becoming agents or employees of larger companies, and I don't want that to happen. I don't think it is socially desirable and I think if it does happen, eventually the public is going to pay interest on that red line.

The CHAIRMAN. What you say, when summed up, amounts to this, and it is a conclusion that has been arrived at in various other industries that the integrated company tends to drive the small independent nonintegrated company out of business.

Mr. HADLICK. That is right.

The CHAIRMAN. And that the problem before the country is to determine whether or not it is in the public interest to maintain the independent, nonintegrated operator or to permit the integrated operation to grow even greater than it has grown and absorb a greater proportion of the independent, free enterprise of the country in all lines of industry.

Mr. HADLICK. I think that is your problem; I mean I think that is what your committee was created for.

The VICE CHAIRMAN. And your clear-cut statement, as I understand it, is that the independent could continue on a competitive basis if his integrated competitor was compelled to use the resources required in the distribution, rather than draw on pipe lines and other sources of revenue.

Mr. HADLICK. I am positive of it.

The VICE CHAIRMAN. That is clear-cut. That is what you say.

Mr. HADLICK. That is right. In other words, we have the analogy. The A. & P. stores and similar chains of distribution have not put the merchant out of business—they have perhaps made him a more efficient merchant—except as they are able to reach back and become more integrated themselves in the production of sugar or production of products. So long as they stay simply retailers on the same basis, no matter how large they are, the merchant doesn't go out of business. But when you integrate, you are giving a profit, and that integrating applies in many, many industries with which you are familiar, whether it is shoes or clothing or whatnot.

The CHAIRMAN. Of course, the contention is always made on behalf of the integrated company—and I am not referring now to those which are operating in the petroleum industry alone—that they operate more efficiently and that they give the public a better service. It is pointed out, for example, in the distribution of food products—the argument is made, I should put it this way, that a better grade of food in a more hygienic manner is presented to the people now than was distributed before the development of the integrated company. Now, is it your conclusion from your experience that the integrated company should be eliminated?

Mr. HADLICK. I wouldn't eliminate its function in marketing. Let an integrated company separate that function. But I think the inte-

grated company should be broken up so that it stays in either manufacturing or distribution, or in transportation, or in production. I don't know where the line should be drawn.

The CHAIRMAN. What is the difference in your mind between eliminating and breaking up?

Mr. HADLICK. Well, I want to draw the distinction between a chain of stations under one operation as against a single bulk plant or station. If they are buying competitively, as the Robinson-Patman Act intended, they should buy on some competitive basis, you don't have to worry about the small fellow going out of business.

The CHAIRMAN. Do you contend that the refiner should not engage in marketing?

Mr. HADLICK. Exactly.

The CHAIRMAN. So you would separate these two functions?

Mr. HADLICK. That is right.

The CHAIRMAN. And put them under absolutely independent management?

Mr. HADLICK. That is right.

The CHAIRMAN. Would you put them under independent ownership?

Mr. HADLICK. I would so distribute the stock so there would be no such thing as a subsidiary company, so that the stock went to the owners of the equity in the company.

The CHAIRMAN. Where would you draw the line between permissible degree of integration and nonpermissible degree? Would a refiner be permitted to own production?

Mr. HADLICK. Well, I have no objection to his owning production because that doesn't hurt my kind of people. You will have to find someone else to get the answer to that. I am principally interested in our group, naturally.

The CHAIRMAN. And your interest in transportation is only incidental as it refers to marketing?

Mr. HADLICK. That is right.

The CHAIRMAN. Your contention is, as I gather, therefore, that divorcement of marketing from refining would be a desirable end to achieve and that perhaps divorcement of pipe-line transportation from refining could also be desirable, but you are not quite so definite about that.

Mr. HADLICK. I am not quite so definite, for this reason: Divorcement of marketing would accomplish our purpose of separating marketing, and it wouldn't make any difference to us whether the pipe lines were divorced or not.

The CHAIRMAN. You are making the same contention with respect to this industry that was made 20 years ago with respect to the packing industry.

Mr. HADLICK. Exactly; and, of course, that was accomplished under the present antitrust laws, and this might be; I don't know. It is a very similar situation. At that time, if you read Justice Holmes' decision, the rebate, the freight-rate advantage that was alleged in the early cases against Swift and the other four packers, was the difference between the carload rate and the less-than-carload rate. They would ship a carload of meat to Louisville and sell it to the dealer on less-than-carload rate, and that was, in the words of Jus-

tice Holmes, a horrible example of rebating and unfair use of a transportation profit.

The CHAIRMAN. And as a representative of a jobbers' organization you are telling this committee that an increasingly larger proportion of the independent jobbers are coming under the control of these integrated refiners?

Mr. HADLICK. That is right.

The CHAIRMAN. So that they are being transformed from independent jobbers, independent businessmen, to employees and agents of the companies?

Mr. HADLICK. That is right. Now, I have a basis for that thesis in the rest of my remarks here, and these charts will prove it. Roughly, it is simply this: That, with the advent of national advertising and various inducements, an effort was made to convert the jobber from an open-market jobber to a contract jobber. That could not be successful without the control over new sources of supply, new refiners; and proration was evolved, restrictions on production; and then we had buying pools to buy up the surplus gasoline, and eventually the jobber, particularly where a price war would be inflicted upon him like in Detroit and Chicago, would ask for a 100-percent contract with a local guaranty, and that next step is acquiring a stock interest, or giving him a lease. There are tricks in a lot of those leases, too; they lease the bulk plant for 10 years and employ the man for 1 year at a nice commission and then out he goes, gradually, as I say, moving these bulk plants from what they call weak hands to strong hands, just like they moved the production from what they called weak hands to strong hands, because the independent refiner, with the sheriff at his door, had to sell his gasoline and get his money to pay.

The CHAIRMAN. And is it your conclusion that if this suggestion of yours were carried out, the consumer would not be penalized?

Mr. HADLICK. Definitely not.

The CHAIRMAN. The gasoline and other petroleum products would be sold as cheaply to the public and would be of just as good a quality as they are now?

Mr. HADLICK. That is right.

Mr. AVILDSEN. Mr. Hadlick, do I understand then that you want to divorce the marketing from the refining but allow the major companies to own these marketing companies, set them up as subsidiary corporations?

Mr. HADLICK. Not as subsidiaries. Set up a separate corporation and give it whatever would be a reasonable amount of assets, as Barnsdall did here.

Mr. AVILDSEN. And distribute its stock to the stockholders?

Mr. HADLICK. To the stockholders. Now, there would still be some of these controls in some of these companies. In a small company it might be identical control.

Mr. AVILDSEN. Suppose that were done and then suppose after the marketing company had been operating a little while it ran into a price war with other marketing companies and operated at such a huge loss that it soon had to go out of business, wouldn't they naturally come to this refining company and say, "If we go out of business, you will lose all your outlets for your products. We would

like to sell you some stock." Wouldn't that refining company be forced to put more money into the marketing company, just to assure itself of an outlet for its product? I don't see that anything would be gained.

Mr. HADLOCK. Under the proposal we had made in preparing the Gillette bill that would not be permitted, and that argument was all gone through about the Reading Railroad and their coal-mine affiliate. There are a lot of equities that don't appear even in the oil business, but here was a railroad company with a $10,000,000-bond issue and the bond issue was granted to the railroads simply because they owned the coal mines, not because of the value of the road. But in the *Continental Insurance Co. case* they held the law said divide them, and it was just too bad; if someone cracks up in the meantime, that is one of the forces of competition.

What I point out is that there would probably be some of those go broke, and there would still be some of our people going broke in the competitive struggle, but the rules of the game would be somewhere near fair.

Mr. AVILDSEN. In that case, the refining company probably would be forced to go broke, too, if it had no outlet. It wouldn't be fair to the refiners not to give them a chance to secure an outlet for their products, whether that took the form of investing money in an old company or investing money in a new company. How are they going to sell their products otherwise?

Mr. HADLICK. They would have to find another customer.

Mr. AVILDSEN. That might take so long they could go broke in the meantime. They have a big overhead, too.

Mr. HADLICK. Well, there are lots of concerns——

Mr. AVILDSEN (interposing). I mean if you follow the thought through, I think you will find while it might help your clients, it might be unfair to a lot of other people.

Mr. HADLICK. It cannot be more unfair than the present situation with 33⅓-percent gross being spent in marketing beyond what they will allow our people; I mean it is axiomatic that unless the jobber grabs one of these contracts or grabs some of their stocks so he can preserve his individual salary, if this thing keeps on another 5 years there won't be 200 independent jobbers left in this country.

The CHAIRMAN. I think that is a good place to interrupt the proceedings. The committee will stand in recess until 2:15 this afternoon.

(Whereupon, at 12:07 p. m. the committee recessed until 2:15 p. m. of the same day.)

AFTERNOON SESSION

The hearing resumed at 2:30 p. m. at the expiration of the recess, Representative Sumners presiding.

The VICE CHAIRMAN. The committee will please come to order.

TRANSPORTATION RATES

Mr. HADLICK. Mr. Chairman, during the noon hour I met one of my friends whom I have known for a long time, and whose judgment I respect, and he asked me if I meant to convey in my testimony this morning that I question the integrity of the Interstate Commerce

Commission, or any of its Commissioners. My reply was that I did not intend to do so, and he led me to believe that maybe I had left that impression with the committee.

I did not mean to question their integrity. I did not mean to say that there was any illegal influence used over them, but I do question their efficiency, and I question their decisions.

The Interstate Commerce Commission was created to protect the small shipper from the machinations of the large shipper and the railroads. That is what it was created for, and I believe in carrying that out, they have wholly failed.

I mentioned this morning the *6.6 Weight of Gasoline case*, I. C. C. Docket No. 27682. I advised against that case to my people, refused to make our association a party to it, but it was nevertheless carried on. I told them that it would wind up exactly the way the railroads wanted it, and that is what happened. The only time a railroad rate in the oil business—maybe that is a little too broad——

The VICE CHAIRMAN (interposing). I think you are making your explanation a little bit extended, if you will permit an observation from the chair.

Mr. HADLICK. I will cease at that point then.

The VICE CHAIRMAN. You can continue if you like.

I did have a point here that just came to my attention, that the railroads seldom reduce a rate unless it is to aid a large integrated company in meeting a competitive situation. I can make it plain by just one case, and it is typical.

Tip O'Neal built a plant at Cut Bank, Mont., about 2 years ago. The freight rates at that time gave him an equalization rate to Spokane, Wash., from the coast; in other words, his rate from his refinery to Spokane was exactly that of the rate from Portland to Spokane. He began to get some business. I. and S. Docket 4614 was a proposal by the railroads to reduce the rate from 45 cents a hundred to 25 cents a hundred from Portland to Spokane. I see that the Commission has ordered the rate of 28½ cents, giving the railroad practically everything that they have asked for. That I think is typical. Excuse me for going back and retracking on what happened this morning.

Mr. CHANTLAND. Mr. Hadlick, would you say that the members of your association are average or above or below average in volume of business done in the field of the 8,000 that you call independent jobbers?

DIVORCEMENT OF MARKETING ENDORSED BY OTHER ASSOCIATIONS OF INDEPENDENTS

Mr. HADLICK. I would say that they are at least in a financial way above the average, and perhaps in the amount of gallonage. I might explain that there are a number of State associations of jobbers that feel the same way as we do who have adopted resolutions endorsing marketing divorcement, who support our program. There is a large one known as the Dixie Interstate, 160-some jobbers using a common brand. They endorse our program, yet perhaps only a dozen or 15 actually pay into our association and we only count those who pay.

Now we have similar endorsements from the jobbers' associations in Iowa, Missouri, Tennessee, South Carolina, North Carolina, Vir-

ginia, Pennsylvania, and other places. So that I am presenting, I believe, what is in the minds of most of those 8,000 jobbers that are still truly independent.

Mr. CHANTLAND. If your association members are better off financially and perhaps do a bigger volume of business than the average, what do you say about the ability of those lesser jobbers to operate profitably on the same margin that you have described for your members?

Mr. HADLICK. Well, I believe it is a fact that while they are getting along on the margin, they are losing money, they are gradually, unless given special help or special concession from the refiner, going through that transfer from an independent jobber to a controlled, or you might say he ceases to be independent at that point.

Mr. CHANTLAND. I guess I didn't get my question clear. Can you say, from your knowledge and experience, whether the less volume and less strong financial jobber can do business profitably on the same margin that your membership can?

Mr. HADLICK. Clearly not; if he has bank loans he has that additional charge to carry his business.

Mr. CHANTLAND. Apart from that?

Mr. HADLICK. Well, the only thing is the fellow who is not as well financed is closer to the ragged edge.

Representative WILLIAMS. Did you consider the action of these major integrated companies in their marketing activity as engaging in wasteful and uneconomic activities?

Mr. HADLICK. From our standpoint; yes.

Representative WILLIAMS. In what respect?

Mr. HADLICK. The crowding of the market with investment that is not needed, with salesmen that are not needed, with inducements to get business that are not desirable nor needed.

Representative WILLIAMS. Do you consider some of these activities which have been described here, for instance the painting, inside and out, of the station, and the making of concrete driveways and furnishing additional advertising and perhaps loaning or giving to the station and distributors the use of the facilities, the pumps and so on, at a nominal rent, and reducing the rent for their place of business, and all that, do you consider that unfair to competition?

Mr. HADLICK. Not unfair under the present law; no, sir.

Representative WILLIAMS. Well, is it unfair from any standpoint?

Mr. HADLICK. Well, it is unfair when you look at the whole integrated picture. By that I mean that I haven't reached a point that I am going to in showing the effect of proration and buying pools and margin agreements on the jobber. Prior to that time, while they were a competitive factor, they were bad business perhaps; we still got along, but you add those on top of a falling ceiling and a rising floor and you have the jobber in between.

Representative WILLIAMS. Well, that is perhaps because of his inability, financial standing, and position to meet those conditions. Isn't that true?

Mr. HADLICK. No; I wouldn't say that was true. He is faced with the situation of operating on perhaps a third less than the integrated unit. That third less or the third more that the integrated unit uses is derived in other branches, part of it the basis of Government con-

trol, part of it illegal agreements. When you look at that base, our ability to compete is seriously impeded.

Representative WILLIAMS. Well, if you cut the integrated companies loose, as I understand you, from all their other activities except the marketing activity, and you want to cut them loose from that, too, then the company that engages in the marketing activity should be on an equal competitive basis with what you described here as the independent jobber.

Mr. HADLICK. That is exactly what we want, Mr. Williams.

Representative WILLIAMS. Well, I don't see any difference between that and the situation now, except as you say they use the profits which they obtain in some other branch of the business to offset their losses in the marketing operations.

Mr. HADLICK. That is right.

Representative WILLIAMS. Is that all that is the matter?

Mr. HADLICK. We feel there is one more consideration, and that is the imposition of restrictions on production, partially approved by the Federal Government, and then, as I say, the buying pools superimposed on those. That gives a floor to your buying. We are buying in a controlled market, controlled in every sense of the word as if it were controlle by a fiat of law, and we are selling in a competitive market, not against free completitors, but against competitors who are fortified in their marketing operations by their profits from part of the industry that is given an undue profit.

Representative WILLIAMS. Do you mean there isn't any competition in the buying market from your standpoint?

Mr. HADLICK. From our standpoint?

Representative WILLIAMS. Yes.

Mr. HADLICK. From a competitive standpoint it is almost nil.

Representative WILLIAMS. Why is that?

EFFECT OF PRORATION ON THE INDEPENDENT

Mr. HADLICK. It is because the proration of oil by the various States has placed a peg in the price for crude oil. That price is basic. By the proration of the amount per well, many independent refineries closed. The majors were then able to go after the refinery market, to raise that.

The VICE CHAIRMAN. Don't you think it would be well to explain how it has come about that proration has closed the independent concerns and the other concerns have continued to operate? How has proration had that result?

Mr. HADLICK. Well, I think it is axiomatic that if a refiner had a certain number of wells in East Texas to supply a refinery and that per well allowable was reduced down to the point where he had to seek other places to buy his oil, that he was placed at a competitive disadvantage, but that isn't what happened all at one time. I can perhaps, if I may, go to this next chart. I can show you a little better what happened.

Representative WILLIAMS. Do I understand now from your position with reference to the crude oil that there isn't any competition in crude oil prices in the field of production?

Mr. HADLICK. No; I am talking about no competition in the refinery prices and the price at which the jobber can buy.

Representative WILLIAMS. I understood you to go back to the crude price as the basic foundation for it.

Mr. HADLICK. That was bolstered by a crude price and the moment the crude price starts to go down, we have such things as the shutdown for 15 days so that the price stays almost level at $1 to $1.10.

Representative WILLIAMS. Then you are not contending that there isn't competition in the production field of crude oil?

Mr. HADLICK. Sir, I wouldn't have the experience as an expert to judge that matter. I am interested, and always have been, in marketing. Any observation I make is only what I have gleaned as I went along.

Representative WILLIAMS. There are a great many States, aren't there, where they don't have any proration laws?

Mr. HADLICK. That is the one thing that has saved the independent jobber from going out of business, the fact that as the tightening of production control in the Southwest became more stringent, Michigan crude came in, and as they got this Michigan law passed, Illinois came in.

Representative WILLIAMS. Those proration laws, then, in your opinion, are meant to fix output and determine price rather than conservation?

Mr. HADLICK. That is my firm belief, and I think it is a great mistake to fortify them with such acts as the Connally Act, the Interstate Compact. Take the Bureau of Mines forecasts, an activity of that kind, it was brought out in the House hearing on the Connally Act that representatives of the Department of the Interior were in Illinois you might say lobbying to get a proration law passed in that State. I am told that there will be such a law passed. The legislature meets on the 17th of October and I would take odds that there will be such a law passed.

Representative WILLIAMS. You think the Connally law ought to be permitted to expire under the terms of the act?

Mr. HADLICK. More than that, I think it should be repealed.

Representative WILLIAMS. Are you in favor of conservation as a national proposition at all?

Mr. HADLICK. Prevention of physical waste and the use of proper engineering principles, yes.

Representative WILLIAMS. How can you do that without some kind of a conservation law?

Mr. HADLICK. You need some kind of a law but you don't need proration. In other words, it isn't a question of prorating per well, it is a question of seeing that that well produces the maximum amount of oil with the minimum of waste. I am getting onto a subject on which I admit I am not qualified as an expert.

The VICE CHAIRMAN. Your contention is that the big companies subsidize their selling agencies with money which they take from other branches of the service. In other words, they are operating the most highly competitive branch of their activity at a loss and drawing upon their earnings from other sources in order to put the independent producer out of business, that is what you have contended.

Mr. HADLICK. I have at times added that, "in order to put us out of business." At this hearing I would rather not make the accusa-

tion that is what they are doing it for, but that is the result whether they are doing it by design or happenstance.

Representative WILLIAMS. It is your opinion then that if they were put on their own so far as the marketing operations were concerned, they would not engage in these so-called uneconomic activities and do the various things they do now in order to capture their markets.

Mr. HADLICK. I think that is right.

Mr. AVILDSEN. You mean then you think there would be less competition in marketing if they did that?

Mr. HADLICK. Not less competition for the consumer business.

Mr. AVILDSEN. Don't all these losses result from competition?

Mr. HADLICK. A great many of them are uneconomic to both the consumer and to the company.

Mr. AVILDSEN. But they result from extreme competition, do they not?

Mr. HADLICK. If you call capturing a market extreme competition, perhaps that is right.

Mr. AVILDSEN. It is nothing else, is it? In other words, it seems to me you are advocating a plan which would result in less competition.

Mr. HADLICK. It would be competition on an equal basis.

Mr. AVILDSEN. What does that mean?

Mr. HADLICK. In other words, our contention is this, that when it comes to the large company and the small company in this or any other industry, there comes a time when the smaller company cannot survive, not because of his inability to compete in that market but because of other things far and beyond, including some help from the Federal Government. It is time then for that Federal Government to protect that independent man. In other words, what proration is doing—and I am not going to quarrel with it, it is here, it is going to be here, but proration is expropriating the money of my relatives and my people in Minnesota, and delivering it to the State of Texas and Oklahoma under the guise of conservation.

The VICE CHAIRMAN. How is it doing that?

Mr. HADLICK. Because the economic price for oil is not $1 or $1.10 per barrel.

The VICE CHAIRMAN. I know, but that doesn't result in taking the property away from your people and transferring it to Texas.

Mr. HADLICK. By the Connally Act prohibiting the crude oil coming out of the State produced in excess of State quotas, you are aiding in raising the local level of your price structure.

The VICE CHAIRMAN. Suppose it was a conservation act, wouldn't the relative position of Minnesota and Texas be the same in the relative market?

Mr. HADLICK. No; I think not. I think we would pay less for our fuel oil. I think we would pay less for our gasoline.

The VICE CHAIRMAN. You are not speaking, then, of oil producers in your section of the country but oil users?

Mr. HADLICK. We have no producers in our State.

I want to leave this straight. If that is economically desirable to fix a price for part of the industry, I question, without advocating, why not give the other person down the line in the business the

same protection? If you prevent my people from buying in the competitive market, why don't you protect us and let us sell in a controlled market, controlled by the Government, not by these agencies that are back here. Or else segregate it, and that is the answer I have come to rather than further control. We don't care what you do with the price of oil in Texas as jobbers, we might as consumers, if all in the marketing branch have to stand on the same footing.

The VICE CHAIRMAN. A big concern that has much production, could it depend on independent outlets under the general conditions?

Mr. HADLICK. You mean today?

The VICE CHAIRMAN. Yes.

Mr. HADLICK. Well, standing alone, maybe not. Put them all on the same basis; yes. I think the experiment of Barnsdall—I think Mr. Rieser made a noble experiment in trying to run a refining and marketing company separated from each other. He couldn't do it alone.

The VICE CHAIRMAN. This question from your testimony constantly presents itself to my mind, assuming your statement to be 100 percent correct. How can an independent concern continue to operate if other concerns draw upon their earnings from other sources and build attractive stations and have their gasoline, which has built up a trade name—how can you do it? What do you say about it, assuming your proposition is correct?

Can you do anything else that could counteract that situation?

Mr. HADLICK. At the present time?

The VICE CHAIRMAN. We are talking about the present.

Mr. HADLICK. We can either live on the crumbs, or we can go in and sign a contract, and they will give you a contract, they all look about alike, agreeing to handle their products 100 percent, agreeing to buy not only their gasoline but their lubricating oils and other things, and in some instances their tires and things they put their brand on. And they gradually take that man from being an independent merchant to the status of a controlled agent or employee.

The VICE CHAIRMAN. Then I understand that to be your answer, that regardless of whatever else may be done, if major companies are permitted to draw from their earnings, from other sources, and make that contribution to their selling activities, you can't as independents stay in the business and meet that competition.

Mr. HADLICK. That is right. The only thing we can do, as I said, was eventually become an agent of that company, sell the property to them.

The VICE CHAIRMAN. Let me ask you one other question. If that is done and trade practices and so forth remain as they are, could the independents remain in business?

Mr. HADLICK. I wonder if you could have the question read?

The VICE CHAIRMAN. I can repeat it, or maybe you can read it.

(The reporter read the previous question.)

The VICE CHAIRMAN. Other trade practices, I mean, and economic organizations.

Mr. HADLICK. You mean if divorcement took place?

The VICE CHAIRMAN. If that alone took place. You are coming now as a representative of independent distributors, seeking, as you say, a condition under which you can live?

Mr. HADLICK. That is right.

The VICE CHAIRMAN. And my question is if the selling end is divorced from all the other activities connected with the oil business, could the independent distributors whom you represent remain in business?

Mr. HADLICK. Absolutely.

The VICE CHAIRMAN. You find nothing else, then, in the practices of the major companies which would interfere with the opportunity of your continuing to do business?

Mr. HADLICK. Well, we might find a conspiracy, and I have one I want to refer to a little later. If we found those they would have to be stamped out, but barring that; no.

The VICE CHAIRMAN. Now, then, we are getting right down to what we are talking about. How would you go about bringing about the result which you deem to be necessary in order that you may remain in business?

Mr. HADLICK. My idea is expressed best in the Harrington bill, H. R. 2318, in the House, before the House Judiciary Committee, a companion bill of Senator Gillette in the Senate, S. 448 before the Senate Judiciary Committee. That provides for the cutting off, the absolute severing, of the marketing function, from the refinery on out.

The VICE CHAIRMAN. But suppose you did that, and I don't have in mind the legislation to which you refer, would there be probabilities that the persons interested in the big companies would take a part of their private funds and invest them in this losing venture of selling and leave you in the same situation? I can appreciate there isn't much probability, but what is your reaction of judgment to that?

Mr. HADLICK. I think that if all were required to do it at the same time, as they would by a law, they would set up that marketing department as a separate corporation, give it, in view of its fixed assets, a reasonable capitalization or reasonable working capital, give it such employees as perhaps had been in their marketing department, distribute the stock to their stockholders, and from then on they would have to operate as we do, or as we have had to in the past. If there was poor management they would cease to operate. If there were good management they would profit by it. There are a lot of economies could be perfected in the marketing of petroleum if we didn't have this rush of the various companies—we call them competitors—I can't call the Socony and New Jersey Co. competitors in New England—they are competitors for a purpose; they are competitors to get control of the market.

The VICE CHAIRMAN. Let us stay right with our knitting on this thing and hang right to this proposition. We have gone by one. That is, you have said that in your judgment there could be brought about a genuine divorcement of the selling end from all the other activities; then you could remain in business. Then, you think, as I understand your testimony, you could remain in business without hurt to the public interest?

Mr. HADLICK. I believe so; yes, sir.

The VICE CHAIRMAN. Well, I believe that is about all you are talking about, then, isn't it?

Mr. HADLICK. That is the main theme; if you don't do that, Mr. Chairman—I don't want to appear to be back-tracking—if you don't do that, then we must have some relief against these controls on the production of oil that we have talked about.

The VICE CHAIRMAN. It isn't at all probable, as you have indicated, that that sort of relief will come soon?

Mr. HADLICK. I have no faith in that relief coming.

The VICE CHAIRMAN. You are not going to go that route strongly?

Mr. HADLICK. Only before the Federal Congress and only until such time as we can secure marketing divorcement. So far we have never so much as written a letter to anyone in a State about their own particular State law.

INDUCEMENTS OFFERED JOBBER TO BECOME EXCLUSIVE DEALER

Mr. HENDERSON. Now, Mr. Hadlick, let me see if I can get at this question of competition in a little different way. I gather from your morning's testimony and from this afternoon's that you, as an independent jobber coming in contact with opposition from the integrated companies, find that various kinds of bait are offered to secure exclusive selling arrangements, such as fixing up the sidewalks, installing islands, special greasing apparatus, and the like, and you feel very definitely they are of sufficient attraction to wean a man away from an independent status into a controlled status?

Mr. HADLICK. That is right.

Mr. HENDERSON. The inducement given in these cases is enough to make the difference between making a decent profit or suffering a loss?

Mr. HADLICK. In the case of the dealer it might represent the difference between operating at a profit or operating at a loss.

Mr. HENDERSON. Let me ask you this, Do you know of any cases in which the amount of inducement offered is increased as a bait to an independent to change his status?

(Senator O'Mahoney resumed the Chair.)

Mr. HADLICK. You are talking now of a dealer for an independent station?

Mr. HENDERSON. For a jobber.

Mr. HADLICK. As to jobbers; yes. I have known some.

Mr. HENDERSON. In other words, are there some cases in which the amount offered is progressively increased in order to get the exclusive agency and the exclusive dealing in the major companies for tires, lubricants, and the like?

Mr. HADLICK. That is right.

Mr. HENDERSON. Whether it is fair or unfair competition, the legal question is obscure. But there is no doubt in your mind that the kind of subsidization that goes on is intended to be of sufficient amount to get the control status as against the independent status?

Mr. HADLICK. That is right.

Mr. HENDERSON. I think that is the nub of the whole argument. That is, if there is an amount sufficient to change the status, then you get something, which, independent of all legalities involved, is unfair competition. Very often it is possible for a layman to see that some-

thing is unfair in terms of equality of competition which may not be illegal.

Mr. HADLICK. I wanted to be in that position of not passing on the illegality or legality of these practices; of simply presenting a problem in a factual way, and if there is relief due us in the courts, why we would assume it would go to the Department of Justice. If there is relief due in the Halls of Congress, that the recommendation of your committee would so bring it about.

Mr. HENDERSON. Do you believe that your group can operate as efficiently as any group that has to bear its full cost?

Mr. HADLICK. I swear we can, and probably cheaper than a chain outfit.

Mr. HENDERSON. You believe you can operate more efficiently?

Mr. HADLICK. That is right.

Mr. AVILDSEN. Mr. Hadlick, do you know of any other industries which have had legislation passed for divorcement such as you are proposing be passed for your industry?

Mr. HADLICK. Congress passed the divorcement of banking and investment. That was one. It divorced the public utility holding system. The Department of Justice has recently brought a suit against the motion-picture people to divorce them; still in the courts.

Mr. AVILDSEN. What Congress has done.

Mr. HADLICK. Those are the instances by Congress. Now we have the—I have some State instances, if you would like them. Mississippi enacted a statute preventing corporations manufacturing cottonseed oil and meal from operating cotton gins. North Dakota passed a statute preventing or prohibiting the operation or control of theaters by motion-picture producers. Illinois passed a statute forbidding grain warehousemen from engaging in grain trade, and of course numerous States have passed laws prohibiting the manufacturer of alcoholic beverages, from engaging in or having any interest in retail liquor stores. I don't think it is entirely in the realm of being unusual.

Mr. AVILDSEN. But the Federal Government has done nothing with regard to merchandising of products of manufacture. The only thing they have divorced is the security.

Mr. HADLICK. That is right, and of course the coal mines from the railroads, the Hepburn Act, and so-called commodities clause. And they did, through the antitrust act, divorce the meat packers from operating retail stores. I think that is a point.

Mr. AVILDSEN. But the meat packers distribute their products today very much as the major oil companies do; in other words, they deliver their meat products direct to the retail butcher.

Mr. HADLICK. That is right, but the wholesale factor apparently was not brought forward at that time. I do not know the history of the meat-packing industry well enough to comment on that, but all that was asked I know in the petition of the Government was for the severance of first the retail outlets and the prohibition of the meat-packing companies engaging in the distribution of allied lines, such as canned fruits and so on, in the grocery line, and things of that kind.

Mr. HENDERSON. Well, the Federal Trade Commission has many,

many times ruled against special inducements which have caused an inequality of competition, has it not?

Mr. HADLICK. That is right.

Mr. HENDERSON. Has any case been brought under the Robinson-Patman Act between an independent jobber and a controlled jobber?

Mr. HADLICK. None that I know of. There has been one case, I believe, relating to retail distribution.

Mr. HENDERSON. That is on the half-cent differential?

Mr. HADLICK. No; that was the case of a company selling a taxicab company as a commercial consumer, and the taxicab company in turn acting as a retailer, and the amount they were selling them at was less than that company's price to ordinary dealers.

Mr. HENDERSON. That was a resale price case, not Robinson-Patman.

Mr. HADLICK. No; it was Robinson-Patman. In other words, they sold this taxicab company as a commercial consumer at 5½ cents off the retail price; actually it was a reseller, not a commercial consumer, because they in turn sold it to taxi drivers. Their regular price to the retailers in town was 4 cents under their market, so they were giving 1½-cent discrimination and there was a statement issued by the Commission, whether it was an order or whether the parties agreed, I don't recall.

Mr. AVILDSEN. Mr. Hadlick, when these oil companies build sidewalks and greasing pits, and so forth, for the service stations, don't they violate the Robinson-Patman law in doing that unless they do it for everyone?

Mr. HADLICK. I have been of the opinion that they do. I presented the slips on a great many installations of pumps, for one thing. I contended that the Robinson-Patman Act amended the law and that the old Supreme Court cases relating to loaning of pumps did not apply.

One of the attorneys in the Commission seemed to agree with me and promised to put them through for investigation and subsequent hearing, but nothing was done. That was over a year ago. I put in two or three at that time, the whole correspondence, everything relating to the installation, in an endeavor to get a test. To be very fair in the case, I put in both one of our competitor's and one of our own member's, so we would get a ruling on it.

Mr. AVILDSEN. What did you find out when you followed it up? When did you talk with them last?

Mr. HADLICK. Oh, I can't say exactly. We haven't followed it up recently.

Mr. AVILDSEN. Why not?

Mr. HADLICK. Well, perhaps in explanation of my own work I wasn't prodded in turn by the people who were complaining to me.

Mr. AVILDSEN. Well, you come to this committee and ask us to do something about unfair competitive practices and you don't seem to be making much effort to get the properly constituted departments of the Government to act. That is the way it strikes me.

Mr. HADLICK. If you will excuse me, I come here with a complaint that does not involve what they do over here in marketing. We can meet that loaned equipment, we can build just as many sidewalks as they can, if we are on the same margin of profit. The only thing is that if we are on the same competitive basis, the tendency will be

that the loaning of equipment or things others do will be on a strictly economic basis.

Mr. AVILDSEN. Do you mean if all the oil were distributed by jobbers that a group of jobbers wouldn't engage in the same competitive practices that a lot of producers would engage in? Is there something different about their mentality which would restrain them from giving away pumps and sidewalks?

Mr. HADLICK. Competition would restrain it in the price factor instead of the round-about factor.

Mr. AVILDSEN. You said if they were given the same margin of profit as the major companies give their marketing divisions, they wouldn't do these things.

Mr. HADLICK. I say we would do some of them, but the tendency would be to eliminate the secret and bring the matter out into the open as a price proposition.

Mr. HENDERSON. Wouldn't it also come to this: that would be coming out of the pocket of the jobber and out of his realization on the difference between the cost of his material and what he was able to get for it, whereas in the case that exists now it does not come out of the realization on jobbing or on retailing.

Mr. HADLICK. That is right; it does not.

I don't think I make myself exactly clear. The jobber can and does perform the function as cheap or cheaper than does the integrated unit, on the same basis that a local grocery efficiently run has a lower cost of operation than a chain store, and we are not kicking about chain stores. We want the protection applied to our business just the same as the Robinson-Patman Act has protected the small grocer from the rebates that the chains were able to get. It is just another form in the cycle of the business of rebating, the siphoning of these profits.

Mr. AVILDSEN. I didn't understand that the Robinson-Patman law is limited to the grocery business. It seems to me that it applies to your business as well as any other.

Mr. HADLICK. Oh, yes; but does it apply to a company taking its profits that it has made in production and pipe lines and spending them in marketing? It does not. Do you see what I mean? I am not trying to beg the question. In other words, if these were separated, then the Robinson-Patman Act would apply to everybody. It applies to our purchases that we buy in the wholesale market, but it does not apply to the sales in the wholesale market from the integrated company to its subsidiary or to its marketing organization.

The CHAIRMAN. I wonder if our questions are helping you to complete your statement as you had planned to make it.

Mr. HADLICK. I will try to run through this just as rapidly as possible. I think you have taken care of many of the items. I would like to get onto these charts.

The CHAIRMAN. I will be very glad to ask the committee to refrain from interrupting you for a few moments if you care to explain the charts.

JOBBER NET MARGIN ON GASOLINE

Mr. HADLICK. I would like to point out these charts, copies will be given you, and no doubt further study will give you a better picture. I will try to do it as hastily as possible.

In this chart here, "Gasoline Prices and Margins, Chicago, 1930-1937," the point I want to call to your attention particularly is this cross-hatch, the jobber net margin.

The CHAIRMAN. Please define the chart so it will be clear in the record.

Mr. HADLICK. I think I did read the title of it, and it appears at page 19 of my prepared statement.[1] This jobber net margin runs over through the years from '30 to '37.

The CHAIRMAN. What do you mean by the net margin?

Mr. HADLICK. That is the difference between what the jobber in Chicago could buy at and the price at which he could sell. That is his net margin. This is a very highly competitive market. The margin fluctuated usually up through this period, we will say at an over-all profit; then late in '32, '33, probably breaking even, probably losing money. With the advent of production control—and effective control over price and production started right here, September 1, 1933—you see you have a base price of crude oil on the up grade; there have been a few jags since but they are not material. It was at this point in the beginning of '35—here is the refinery market, this middle line between the crude and the cross-hatch, this is the so-called golden stairs—where the buying programs came both in East Texas and the Mid-Continent, and because that case is in the Supreme Court on appeal I will not refer to it as legal or illegal, the result to us is just the same. This price was raised rather arbitrarily and has since stayed. It started to go off here. This was the date of the trial, October 4; the trial started and the margin started widening. You can see from '35 on here (there was a price war in '34 that wiped out some people) there was a prolonged price war in '35, but most of the people in Chicago that were the independent jobbers back in these earlier years are now on guaranteed margins, they can't stand these long periods, and when they do get into what would be prosperity it wouldn't be enough to operate on.

The next chart which follows in my statement, "Service Station Margins and Jobber Net Margins on Regular Gasoline," also has Chicago.[2]

The CHAIRMAN. Before you go to that, does this chart correctly indicate that the retail dealer has a larger margin than the jobber?

Mr. HADLICK. Oh, yes; it is about twice, as a general thing, 3½ to 4 cents for the retail, and as will be seen on this first chart, during this period they were supposed to get a 2-cent margin, but there was always this lag behind these raises in the summer period that really, I think, worked out in the Middle West about 1.75 as a margin.

The CHAIRMAN. Does retailing tend to be more profitable than jobbing?

Mr. HADLICK. Well, I don't know. It would depend on the area and the degree of enforced investment in the industry.

The CHAIRMAN. In Chicago, would it tend to be more profitable?

Mr. HADLICK. I would say retailing even at 4 cents in Chicago would be unprofitable.

The CHAIRMAN. And jobbing at this margin, would it be profitable or unprofitable?

Mr. HADLICK. Certain death. Unprofitable.

[1] Appendix, facing p. 9162.
[2] Exhibit No. 4, included in "Exhibit No. 1211," appendix, facing p. 9162.

Now this chart is for four selected cities.

The CHAIRMAN. This is the chart entitled "Service Station Margins and Jobber Net Margins on Regular Gasoline"? [1]

Mr. HADLICK. That is right. This shows New York, Chicago, Duluth, and Des Moines. You will notice in all of them, particularly Duluth and Des Moines which lacked the severe price wars that took place in Chicago and New York, there was very obviously a competitive buying power of the jobber down through '34. That has accounted for the fact that while crude raised here in '33, the refinery market did not follow immediately. It was in the beginning of '35 that they were able to hold the refinery market and thereby set what they called a 2-cent margin for the jobber. Those show typically how they have straightened out. They are practically all the same and they run along in here, there was a little bulge in here from October 1927 until a short while after the verdict at Madison, and then it has been mostly back to 2 cents or less since that time.

This thing of price wars, as was shown here in Chicago—those are things that occur in the industry below the normal prices passed by the market leader. Des Moines and Duluth were comparatively free of price wars, Chicago having them more frequently. The higher degree of population you have centered, the more the tendency to have these price wars, because during these price wars the jobber comes in and signs on the dotted line for 1¾ or 2 cents guaranteed margin. He has gone 2 or 3 or 4 months and he has a pay roll to meet and he comes in, and of course it is very conducive to getting control. The same thing has worked at times on the retail market, although there is where the other inducements come in more than that.

The charts I have referred to up to the present time are in the record, in the statement of my testimony. I would like to offer for th record these additional charts.

The CHAIRMAN. Very well; it may be so ordered.

PRICE STRUCTURE OF REGULAR GASOLINE IN VARIOUS REPRESENTATIVE CITIES

Mr. HADLICK. This chart is the "Price Structure of 'Regular' Gasoline—State of Ohio."

(The chart referred to was marked "Exhibit No. 1212" and is included in the appendix facing p. 9166.)

Mr. HADLICK. This is for the period 1930 to 1939. During '32, if the records were checked, you would find the "squeeze" put on the jobber at that point, and a lot of contracts, 100 percent contracts, were signed.

Here is a situation, "Price Structure of 'Regular' Gasoline—Scranton, Pa."

(The chart referred to was marked "Exhibit No. 1213," and is included in the appendix facing p. 9166.)

Mr. HADLICK. It shows for several years here complete absence of a margin. That doesn't mean that a jobber, if he operated there, necessarily took that licking. He might have, but the chances are he signed up a controlled contract, and when they come out of the price war at Scranton he will be handling a major line completely.

Here is the "Price Structure of 'Regular' Gasoline—Boston, Mass."

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[1] Appendix, facing p. 9162.

(The chart referred to was marked "Exhibit No. 1214" and is included in the appendix facing p. 9166.)

Mr. HADLICK. You can see typically here beginning in '33, particularly '34, '35, '36, '37, '38, the very great "squeeze" of the jobber margin which accounts for the jobbers there not making any money in that period, as a matter of fact losing money all the time.

The CHAIRMAN. What accounts for the "squeeze"?

Mr. HADLICK. The only thing I can account for that is the scrap between the Socony Vacuum and the Colonial Beacon for that market, as to who is going to be big in that market.

The CHAIRMAN. A comparison of these two charts, the Ohio chart—I was looking at Denver, but I will take the Boston chart—indicates that there is no uniformity in the two markets in the margin which the jobber has.

Mr. HADLICK. You were looking at Denver?

The CHAIRMAN. I am looking at Boston now since that is the one you were talking about.[1]

Mr. HADLICK. The only thing in the Boston market is a sort of a uniform trend toward this lowering of our margin. In other words, this margin here represents the maximum we could buy on an open market, such as exists.

The CHAIRMAN. For example, the 1936 margin in Boston was considerably less than the margin in Ohio for that year.

Mr. HADLICK. That is right.

The CHAIRMAN. The margin for 1937 was nearly the same in the two places, though Boston was still the smaller.

Mr. HADLICK. That is right.

The CHAIRMAN. And in 1938 the Boston jobber margin was considerably less than that in Ohio.

Mr. HADLICK. That is right.

The CHAIRMAN. How do you account for that difference?

Mr. HADLICK. The only accounting for it is that after this period in here, in '32, the Standard of Ohio, who make the market, have allowed the jobber a more uniform margin. Now this is a Statewide chart.[2] If we took that in Akron, Ohio, we would find a place in here probably smaller than Boston ever hit, but that I brought in for a State-wide basis, giving the average for the State.

In these cities where you get these price wars, as I say that is a price below the market leader's price, an open price that sometimes we feel is done by design, at least it happens and the result is exactly the same whether there is design behind it or not.

The CHAIRMAN. But in any event there is no uniformity apparently in these various markets.

Mr. HADLICK. Well, the uniformity would be in the marketing area. In other words, Boston would be typical of all the large cities in New York and New England; Scranton would be typical of Pennsylvania; it is typical of Pennsylvania today, particularly, now, the market around Harrisburg.

Now this chart on Washington, D. C., shows a situation that sometimes needs explaining.

(The chart referred to was marked "Exhibit No. 1215" and is included in the appendix facing p. 9166.)

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[1] "Exhibit No. 1214," appendix, facing p. 9166.
[2] "Exhibit No. 1212," appendix, facing p. 9166.

Here is '31 to '33, that was the time there were peddlers on the streets in Washington, D. C., peddlers it developed later to be supplied by the major companies in many instances. That brought down the market here. The margin has never been large in the District. As a matter of fact, there is no such thing as really operating in the District on a jobber margin as it exists because of expenses being somewhat high, unless you have a certain unit guaranteed by a major company. Some of them have tried it, to their sorrow.

This next chart—The Price Structure of "Regular" Gasoline, Denver, Colo.—depicts a wider margin than most places, perhaps justifiably because of the expenses of operation.

(The chart referred to was marked "Exhibit No. 1216," and is included in the appendix facing p. 9166.)

Mr. HADLICK. Late in '37 an independent refiner, Bay Petroleum, went in there and built a refinery. I don't make any accusation but I notice the margin now is lower and the price is lower. It is a typical price situation that exists in the Rocky Mountain area.

This chart here I had enlarged because it is the Price Structure of Regular Gasoline in Des Moines.

(The chart referred to was marked "Exhibit No. 1217," and is included in the appendix facing p. 9166.)

Mr. HADLICK. This is for a city but it could be used for the State of Iowa as a whole, because the city of Des Moines apparently had no price wars during that period. It shows a general lessening of this margin the jobber is working on, down to '35, '36, '37, and '38. As I say, that is a typical midwestern chart.

This chart—Price Structure of "Regular" Gasoline, Birmingham, Ala.—is typical of the so-called Standard of Kentucky territory, with a "squeeze" in '34 and right on to date. I don't know of any independent jobbers operating there now. There are some operating under marginal contracts which I would say represented controlled jobbers.

(The chart referred to was marked "Exhibit No. 1218" and is included in the appendix facing p. 9166.)

The CHAIRMAN. What is the general inference that you draw from these various charts?

Mr. HADLICK. I wanted to show the general trend of the jobber margin from 1930 to 1938. The trend is downward, and spliced in with some examples where they would show price wars and how those prices could go.

As I say, we are faced with not only the increase caused by legislation such as social security, wages and hours, and different things of that kind, but we are constantly faced with this lowering margin, and to repeat again, we are in a heck of a fix.

The CHAIRMAN. Of course, the jobber is a middleman, isn't he?

Mr. HADLICK. I don't like the term "middleman," Senator, because that denotes a desk broker as a rule. The jobber has a substantial investment. If he is in the middle between the producer or the manufacturer and the consumer, yes.

The CHAIRMAN. You want this committee to distinctly understand, I suppose, that in your opinion this jobber, whether he is a middleman or not, should not be eliminated.

Mr. HADLICK. Distinctly so.

Now, I have made slight reference to two cases at Madison, Wis.

I think it important that I call your attention to them. The first was an alleged program of pool buying of gasoline from the independent refiners in the East Texas field and from the Mid-Continent area. The jury brought in a verdit of guilty; some were sentenced. The decision was upset by the circuit court, reversed, in other words. It is now on appeal to the Supreme Court. The question is not one of fact, Was there a pool-buying arrangement? The question is whether it was an illegal or a legal one. The effect is the same.

There was a second case, and that was of more importance to our group, and that was the agreement of certain companies to limit the margin of the independent oil jobber in the middle western area. Now as to that indictment, most of the defendants came in and plead nolo contendere and paid their fines. In the first group it amounted to $360,000 in fines and something like $40,000 in court cost.

Now I cite those instances to offset this remark of Mr. Pew where he said:

> There has been much criticism, much loose talk of the industry as a monopoly. Much of the criticism has been found on analysis to be based on misinformation and prejudice.

Now I am not prejudiced against anyone, but when a concern comes in and the group that came in and plead nolo contendere to that jobber-margin case, they were, for the purpose of that case, pleading guilty; so that I will not be challenged in the back of the room, as I was over in the House hearing,[1] I would like to read just a couple of lines from Justice Stone's decision in the case of *C. A. Hudson* v. *United States* (272 U. S. 451), where he said, as to a plea of nolo contendere:

> Like the implied confession, this plea does not create an estoppel but, like the plea of guilty, it is an admission of guilt for the purposes of the case.

There is only one other decision in the Supreme Court on this plea of nolo contendere and that was in the case of *United States* v. *Norris* (281 U. S. 619), the Court citing the *Hudson case* and saying——

The CHAIRMAN. I think, Mr. Hadlick, we all know what a nolo contendere is.

Mr. HADLICK. Well, I heard a lot of objections to my contention that it was an admission of guilt for the purposes of the case.

The CHAIRMAN. I know. As you have yourself pointed out here, we are not arguing back and forth, we are trying to develop facts.

Mr. HADLICK. I wanted to just point out one other factor that has aided in this control and that has been the contracts of the Ethyl Corporation, which is an organization owned by the Standard Oil Co. of New Jersey, General Motors, and du Pont. The Government has brought suit on that and, on May 19, 1939, Judge Bondy[2] held that the agreements between the Ethyl Gasoline Corporation and its refiner licensees, restricting sales of treated gasoline to those jobbers only whom it formerly licensed, unreasonably restrained trade and are violative of the Sherman Antitrust Act.

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[1] See footnote 1, p. 8845, supra.
[2] William Bondy, U. S. District Court, So. Dist of N. Y., 27 F. Supp. 959.

There is one other set of charts I wanted to call to your attention, if you will bear with me. They are entitled "Gallons of Gasoline One Bushel of Corn Will Buy," "Gallons of Gasoline 100 Pounds of Wool Will Buy," and "Gallons of Gasoline 100 Pounds of Cotton Will Buy."

(The charts referred to were marked "Exhibits Nos. 1219, 1220, and 1221," respectively, and are included in the appendix on pp. 9168, 9169, and 9170.)

Mr. HENDERSON. Why didn't you get these on a gallon-for-gallon basis, Mr. Hadlick?

Mr. HADLICK. That is a thought, too. [Laughter.]

This chart here shows merely the gallons of gasoline that 1 bushel of corn will buy in Iowa. It is simply showing that with a constant price for gasoline, you have varying quantities of what the farmer can buy with what he produces, and I selected commodities like corn, wool, and cotton because there were no elements of monopoly or control, at least effective control, that entered into them, except perhaps the year '36.

Mr. HENDERSON. On wool?

Mr. HADLICK. Certainly.

Mr. HENDERSON. Can you make that statement about wool, that there is no control?

Mr. HADLICK. I mean control of production.

Mr. HENDERSON. You mean in the United States?

Mr. HADLICK. In the United States; yes.

The CHAIRMAN. Would you say that of corn and cotton?

Mr. HADLICK. I think they were partially effective in '36 as to corn, partially effective in '34, '35, and '36 as to cotton, but I doubt the real effectiveness. I think those prices were more the general price trends and the regular competition that works up and down. I am not putting the charts in to prove any particular theory or point. I thought we would give you some idea of the people on the consuming side buying with what they have to sell to get the money to buy gasoline.

This one ["Exhibit No. 1221"] particularly on cotton is illustrative.

I have discussed in my statement,[1] Mr. Chairman, the various production controls, and we had a little argument here about it this afternoon so I will not go into that. There is only one other point and I will not bring it up or discuss it unless the committee desires it, and that is this question of basing points in the oil industry.

The CHAIRMAN. I think that might be very interesting, if you will give us your point of view and such facts as you have acquired.

COMPETITION BETWEEN INTEGRATED COMPANIES IN GETTING EXCLUSIVE CONTROL OVER MARKETER

Mr. HENDERSON. Before you go to that, Mr. Hadlick, I want to ask one question I failed to ask when we were discussing the competition between the integrated company and the independents. You testified that not infrequently the integrated company would offer additional bait to get 100-percent control and usage of their products in an outlet. As between the principal integrated companies, do they go

[1] "Exhibit No. 1211," appendix, p. 9151.

around to the 100-percent outlets and, if one of them is offering a rental concession of $200, is it customary to offer $250 or sufficient amount to take that jobber or retailer away from the already 100-percent-controlled unit?

Mr. HADLICK. As between two major companies?

Mr. HENDERSON. Yes.

Mr. HADLICK. That happens when a major company directly or through affiliate desires to break into a market. You will find that in the trade you might say they lay the law down, they are going to get their 15 percent of such-and-such a market, and if you meet it, boys, it's going to have to go down, they are going to get that much of the business. That happens, as I say, in these competitive struggles between large integrated organizations when they decide to break in. For instance, when Shell broke in, it was common talk in the trade. They would set a certain amount to go get dealer accounts and they would go after them, and they got them.

Mr. HENDERSON. Take the situation you have in Washington or Chicago, where all the majors are already in. Then is there competition on the additional inducements to get the switching to take place?

Mr. HADLICK. It simmers down as they get what they think they are entitled to. Those Chicago price wars were simply on the basis of the Socony-Vacuum building a larger plant or acquiring a larger plant in Chicago and deciding they were going to be in the Chicago market, and they were going to take so much business, and they did.

Mr. HENDERSON. So in your opinion it is a matter of trying to get a definite place in the sun rather than a day-to-day operation after presumably the pie has all been cut.

Mr. HADLICK. That is right; and usually because of some nearness of either crude or a transportation agency or the building of a refinery, or something like that, a market that they not only can get in but stay in.

Mr. HENDERSON. Is it different, then, from the kind of inducements they offer to independents about which you are complaining? Is there a distinction there?

Mr. HADLICK. Well, they sometimes include inducements in getting the jobber; but, if they do, it is a pretty iron-bound contract or a portion of his stock to stay with it. In other words, the jobber is a pretty independent individual and when they sign him up they sign him up so he is bound, and if he doesn't go along they have the property.

Mr. HENDERSON. Let me see if I can get this a little more clearly. My question was, Is this kind of competition between the majors seeking to get a definite share of the market different from what goes on when inducements are offered to independents to become exclusive? Or does the independent get caught in the other kind of war and is this thing you are talking about merely incidental?

Mr. HADLICK. The independent usually gets caught in between because they pick not only on the other integrated customers, they pick on the jobbers' customers as well, and occasionally these fellows will run to cover and go along. We had a situation in Chicago where Wagonner stations went over with Socony-Vacuum; I mean they bought control. Then another took a contract with them; various

others went with the major lines because they saw this thing on the wall, that Chicago was going to be the battleground between Socony and Standard of Indiana, and why get out there and be shot? It was a case of their having assets enough to stay there to weather the war; they ran to cover. Now that they are there, they will probably stay.

Mr. AVILDSEN. But there was a real war between those two large integrated companies?

Mr. HADLICK. Oh, I think definitely it would be admitted by all.

The CHAIRMAN. Your point, I take it, is that the jobber suffers because of the condition in the integrated industry which was described this morning, which enables it to make a profit on production and transportation while losing it on refining, and the jobber also suffers when the big fellows begin to compete among themselves, only he suffers a little bit more then than in the first instance.

Mr. HADLICK. That is right.

Mr. HENDERSON. I gather that what you are mainly speaking about is a rather continuous process, something on the order of what was developed in Saturday's testimony.[1]

Mr. HADLICK. That is regular; that is every day.

Mr. HENDERSON. I wanted to determine whether you make a distinction in your own mind between this sporadic competition by way of inducements which goes on between the majors and that which is constantly going on against the independent.

Mr. HADLICK. Fortunately for thousands of these jobbers, these big fights between the majors have been concentrated at points like Boston, New York, Philadelphia, Pittsburgh, Chicago, Detroit, Kansas City, metropolitan areas, that the other jobbers didn't happen to be in. The jobbers in those territories have been pretty well put through the wringer several times in the past 15 years.

The CHAIRMAN. Those are the big markets.

Mr. HADLICK. Those are the big markets.

The CHAIRMAN. So you are testifying in the big markets the jobber has been substantially eliminated and that he operates in the smaller markets which serve the less thickly populated areas.

Mr. HADLICK. That is right.

Mr. AVILDSEN. Mr. Hadlick, do these jobbers you speak of handle only petroleum products or do they handle other products, automobile accessories and so forth?

Mr. HADLICK. There has been a distinct tendency in the past 7 or 8 years for them to take on the handling of tires, batteries, and things, and some of them have built up full line automotive accessory distribution. Some of them have been able to recoup their losses or to prevent their losses from getting larger by putting on those other lines.

Mr. AVILDSEN. Do you find that where they diversify the line they have a greater chance of surviving?

Mr. HADLICK. Yes; that is right. Tires, of course, the last year have been a loss again, but over all, if I were in the jobbing business I think that is exactly what I would have done, taken on these other lines because gasoline just wouldn't carry the load.

Do you want to go into this basing point?

The CHAIRMAN. If you please, I think it would be very interesting.

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[1] October 7, 1939, included in Hearings, Part 15.

BASING-POINT SYSTEM IN THE PETROLEUM INDUSTRY [1]

Mr. HADLICK. I have no ax to grind in this question of basing point. I thought maybe some observations as to leadership in the industry might be interesting. I want to be frank, I don't understand why there was so much beating around the bush on it. The fact is this: In all but a few States, which I will mention later, there is some one member of the old Standard Oil group prior to the 1911 split-up that is the market leader, that is the market leader for the general market, just like the Standard of Ohio last Saturday raised its price one-half cent over Ohio. I will give you the picture of who they are so that you will have it for the record. In the State of New York and the States of New England the Socony-Vacuum Oil Corporation is the market leader. In the States of Pennsylvania and Delaware, the Atlantic Refining Co. is the market leader. In the States of New Jersey, Maryland, District of Columbia, Virginia, North and South Carolina, the Standard Oil Co. (New Jersey) or of New Jersey, one of them, is the market leader. In the State of Ohio the Standard Oil Co. of Ohio is the market leader. In the States of Kentucky, Mississippi, Alabama, Georgia, and Florida, the Standard of Kentucky is the market leader. In the States of Tennessee, Louisiana, and Arkansas, the Standard of Louisiana is the market leader. In the States of Michigan, Indiana, Wisconsin, Illinois, Minnesota, Iowa, Missouri, North and South Dakota, and just recently Nebraska, the Standard Oil Co. of Indiana is the market leader, and I should have included Kansas in there. In the States of Montana, Wyoming, Colorado, and New Mexico, and parts of Idaho and Utah, the Continental Oil Co. is the market leader. In the States of Washington, Oregon, California, Nevada, and Arizona, the Standard Oil Co. of California is the market leader.

In the State of Oklahoma, the market leadership is exchanged at different times or they take turns between Magnolia, a subsidiary of the Socony-Vacuum, and the Continental Oil Co. In the State of Texas, it is between the Magnolia and the Texas Corporation.

Now, they set the normal price in their areas. If you sell below that price and they consider competition worthy of note—that is, you are taking their business—they will meet your price in that locality. That is the thing that brings about all these Christmas-tree decorations that we talk about, giving to get dealers, because if you can just find a way to give a fellow something without cutting the price you can go down the line and get business without them lowering that price.

Now, as to the raising of a price above that—above their posted price for the general market—a year or so ago Shell Petroleum tried to raise the market three-tenths of a cent a gallon, figuring with the increasing crude and increasing refined price the market justified it. Nobody met it. This summer Sinclair Refining Co., Consolidated Oil, raised the price a half a cent all over the United States. Some integrated companies met it, others did not. As a general thing, the market leaders did not meet it and the price receded. Now, when these people tell you as a rule about meeting or taking the lead in raising a price, I am talking other than these market leaders, they

[1] See Hearings, Part 5, pp. 1861–1950, for testimony on the basing-point system, its history and economic consequences.

are telling you the truth; they perhaps at sometime or other have raised the price.

If the price is 2 or 3 cents below normal, in Philadelphia, it may get that market back; it may be that the market leader just folds its hands and says, "We met the Sun Oil, or the so-and-so, and if they want the market back let them raise it," and the one who lowered the market might raise it, and they might follow, or they might not.

But this air of mystery, and how they arrive at what they will charge for a general market, that is an air of mystery and entirely within their own province, but the fact in the trade that it goes on and who does the raising and lowering of these general levels is well known.

The CHAIRMAN. Well, what is the machinery by which a particular leader acquires that distinction in a particular area?

Mr. HADLICK. Well, with the exception of Oklahoma and Texas——

The CHAIRMAN (interposing). Distinction or responsibility; I don't know which is the word.

Mr. HADLICK. It is perhaps the largest seller; that is, the largest gallonage and the largest stake in that market.

The CHAIRMAN. Well, now the tendency, I suppose——

Mr. HADLICK (interposing). I am not saying this critically, Senator.

The CHAIRMAN. I understand; there is nothing critical about this, as far as I am concerned, and I suppose that is true of you. I suppose the tendency would be to keep the price up, would it not?

Mr. HADLICK. Well, I think that is their policy. That was what Mr. Swensrud said; all that the market would bear, and I think that is a correct statement.

The CHAIRMAN. What tends to bring the price down?

Mr. HADLICK. Competition from independent refiners. There was a time when there was competition from jobbers—getting less and less, but there was a time.

The CHAIRMAN. As the jobber's margin narrows his ability to compete is decreased?

Mr. HADLICK. That is right; it is decreased. Now, these prices, if you want to get to basing point, and then I think maybe the questions will be a little clearer. There was a time when the basing point for gasoline was Tulsa, Okla., plus freight to Portland, Oreg., or to Portland, Maine. It didn't make any difference. That was the basing point, and that is what gasoline sold for. Ship a tank car, whether you shipped it from some other point or not; now as independent refiners, who came into different positions, ability to ship up the east coast, it is broken down to probably, oh, maybe there are 30 or 40 basing points.

The basing point is the point at which they can get the maximum out of their transportation operation. Now that is the basing point that is used. For a time it looked like your State might have real competition for the consumer. There was the Midwest Refining Co., that was sold to the Standard of Indiana. Then, there was the White Eagle and the Parko. They were independent concerns. The White Eagle was taken over by Socony-Vacuum. Parko was taken over by Sinclair.

You haven't any chance for competition, so that your price in Wyoming is the group 3 market, plus freight to the eastern part of Wyoming, and the Portland, Oreg., price, plus the freight from

Portland to the western part of Wyoming. Now that is regardless of where the gasoline is made, and they have some very ingenious arguments for that price-basing system. I want to point out that it breaks down only when an independent refiner comes in there and starts selling gasoline, and doesn't want so much for his transportation charge.

The CHAIRMAN. What is group 3?

Mr. HADLICK. Group 3 is generally the Tulsa market. In the Interstate Commerce case, Mid-Continent, 1924, they established four groups. No. 1 was the two refineries at Kansas City, No. 2 was the refineries in Kansas, No. 3 was Oklahoma. They just took them as a group. No. 4 was north Texas and part of Louisiana. I think there was a fifth one. But from that group, whether it was Bartlesville, Okla., or Ponca City, gasoline moved through a junction point like Kansas City to points beyond at exactly the same rate, and that was the basis, that was the start of calling it group 3; they used to call it Tulsa.

The CHAIRMAN. Do I understand you to testify that this system is still used?

Mr. HADLICK. As much as possible, it is used. Now it is being interfered with. At one time within my personal knowledge gasoline was shipped from Oklahoma to Michigan. There was an independent refinery there, White Star, later taken over by Socony-Vacuum. Then production came in and Michigan began to ship gasoline out.

Nominally the price to Michigan is set on group 3, plus the freight, less what it takes to hold the business from group 3. Do I make myself clear? In other words, that as these refining points—now it is moving to Chicago—with these refineries springing up in the Illinois field, group 3 is going further back.

The CHAIRMAN. Mr. Swensrud testified that the tendency now is to use the price at destination, I think was the phrase that he used.

Mr. HADLICK. Whenever you sign a contract 100 percent that is what you use. Whenever you buy in Ohio he is absolutely correct, you buy at destination. It was well known in the trade that a number of years ago, the price of gasoline in Ohio, delivered any place in the State, was the Oklahoma price plus 3 cents. The actual freight rate varied from, I think, .286 to .316, but they just made it flat, anywhere in Ohio they would meet that Oklahoma price. Now, because of gasoline pipe line coming as far as St. Louis or Chicago, boats up the river, they have reduced that now to 2 cents. They are only grabbing two cents of that freight. I am just pointing out, not trying to justify their position, but to give you the facts that these prices from a basing point, there are many basing points, may change overnight, if you get independent competition.

QUESTION OF ESTABLISHMENT OF UNIFORM GASOLINE PRICE FOR WHOLE UNITED STATES

The CHAIRMAN. What possibility would there be of developing a standard price for gasoline throughout the United States, and what method would have to be followed to develop such a standard?

Mr. Hadlick. Oh, I don't know as it would be possible. A regular one price for the whole United States would perhaps seriously jeopardize some people and be very profitable to others. As I say, I am not condemning this system.

The Chairman. I am just asking questions about it. What would prevent that? What would militate against such a uniform price or standard price?

Mr. Hadlick. Well——

The Chairman. How would the jobber feel about it?

Mr. Hadlick. Well, I suppose if he was given his margin, enough to live on, he would be so happy, regardless of the price, particularly if the Federal Government would enforce it—I am just talking of the human nature in them, but you have factors that enter into this thing, such as we will take the gasoline delivered in the mountains of North Carolina as an entirely different problem than the gasoline delivered in your district, because there are no supplies available in North Carolina; it has to come to seacoast and it probably has to come in on tank car, and then hauled probably 40 miles to a dealer, so you have factors of cost there that enter into the thing that just couldn't work out. Now the freight rate structure from the jobber standpoint is sometimes hopeless.

You take the rate from Shreveport to Jacksonville, Fla., will probably be 3½ cents a gallon, but you can tanker it around there for half a cent a gallon.

The Chairman. Well, do all the factors of cost in the price of gasoline vary with the area?

Mr. Hadlick. I would think they would vary with the area and the competition they had to meet.

The Chairman. These charts which you have shown indicate that the jobbers' margin varies with area? [1]

Mr. Hadlick. That is right.

The Chairman. Does the retailers' margin vary with area?

Mr. Hadlick. It varies in two degrees. It varies, in the Middle West it is 3½; in the East it is 4 cents. That is more or less arbitrary. There have been a few places where the dealers in remote areas, with the coming of the Iowa plan, felt that they had 3 months or 2 months summer season and were entitled to a better price, and they took it.

The Chairman. You say it is arbitrary. What makes it arbitrary?

Mr. Hadlick. Well, it is the amount set by the market leader.

The Chairman. Well, if this degree of uniformity can be maintained in the jobbers' margin, what reason is there that a similar uniformity should not be maintained in the price the consumer pays?

Mr. Hadlick. That is a difficult question to answer. I suppose with the control features it might be worked out. I know this, that these margins——

The Chairman (interposing). Of course I am not talking about control features. I am not even suggesting that. I am discussing the situation as it now exists. In the situation as it now exists, without control, as I understand you, the jobbers' margin is relatively uniform, as you have described it?

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[1] "Exhibits Nos. 1212–1218."

Mr. HADLICK. That is right.

The CHAIRMAN. Now then, what reason is there that the price to the consumer should not be equally uniform?

Mr. HADLICK. Well, you have overlooked the factor of what the market will bear. That is the factor in the setting of the market price.

The CHAIRMAN. Doesn't that factor affect the jobber as well as the retailer?

Mr. HADLICK. It affects him if he is buying on an open market, but if he is buying on a controlled market he has to run and take whatever is given him, and that is what he is doing, taking what is given to him. We just get the crumbs off the table.

The CHAIRMAN. I take it, then, that in your opinion the jobber occupies the least favorable position in the entire industry?

Mr. HADLICK. I believe he does, sir. I believe he does.

Mr. HENDERSON. Take this case you cited of Shreveport to Jacksonville. Suppose a jobber in Jacksonville buys a supply of gasoline and it is shipped by tanker, what transportation rate does he pay on it in that case?

Mr. HADLICK. Well, he would—a jobber would buy in Florida from the terminal of one of these companies, Standard of Kentucky, or Cities Service Oil, and he would pay just enough under the Shreveport price, plus freight, to keep him from going to the rails, don't you see? If it was equal he would buy on the rails.

Now there are some shadings in there. They had some competition. A fellow was able to put in some terminals and was able to give them competition, but he has been bought out since. I have one—I had overlooked this item, and I don't mean to unnecessarily keep you, but there was an item in the Congressional Record during the debate on the railroad bill this last May 25 in which Senator Wheeler made some remarks and quoted some testimony from an Interstate Commerce case on this question of whether or not the transportation saving is passed on to the consumer. I wonder if I might have permission to read it to you?

Here is what Senator Wheeler says [reading]:

There was considerable testimony in the discussion before the committee and in the hearings before the subcommittee as to whether or not if there aren't any savings in rates because water transportation may be cheaper than rail, or motor transportation, between the same points, the shipper gets the benefit of the reduced rates. In a recent hearing before the Interstate Commerce Commission, held at Memphis, Tenn., in February 1937, in fourth section, application No. 17413, involving rates on gasoline and kerosene from the Baton Rouge group to Alabama points, Mr. A. M. Stephens, general traffic manager of the Standard Oil Co. of Kentucky, testified:

"We do not take into consideration any evaporation charges in connection with any surveys we made for any individual terminals because we find that on all of our inland waterways terminals we amortize this investment. As to our inland waterways terminals we usually amortize them within 2 or 3 years.

"In other words the money we make on our water terminals we put in our pocket. We do not pass it on to the consumer. No other oil company does that I know of, except where there is price competition and naturally in that connection we have a depreciation set up that may last for 10 years but in the meantime we have fully amortized the investment shown in our accounting procedure and the economy that we realize is credited to the P. and L. account for margin.

"We have great savings in our water terminals, inland waterway terminals that we eliminate entirely evaporation and insurance in all of our calculations. That enters into our general accounts by reason of the great number of water

terminals operating at the present time on the South Atlantic coast the gulf coast and the Ohio river and the evaporation lost from our aggregate figures is less than 40 points.

"In other words it is less than one-half of one percent. I have the figures here showing our evaporation losses in connection with all of our transportation to these Ohio River points which I have indicated and I will be glad to file them for the record if they are so desired."

On cross examination Mr. Stephens testified as follows: "Question by Mr. Beck. Mr. Stephens, with regard to the impossibility of imposition of tolls on these rivers has that received the full consideration of your committee in dealing with these matters? That is do you view things like that for any particular time in the future?

"Answer. Oh yes; we exercise our judgment and foresight in the consideration of all of these matters. We have found that none of the other companies are passing any of this money on to the consuming public."

I think that is all I have unless there are some further questions.

The CHAIRMAN. Mr. Snyder, do you care to ask some questions?

INTEGRATED COMPANY VERSUS THE INDEPENDENT

Mr. SNYDER. Yes. Mr. Hadlick, with reference to the membership of your association, are your jobber members mostly under contract with the so-called major oil companies for the distribution of gasoline?

Mr. HADLICK. I would judge that probably 80 percent of them have some kind of a contract with a major company.

Mr. SNYDER. Does a large percent of the 80 percent of the so-called jobbers contract with the major companies?

Mr. HADLICK. I would say no, not as a general rule. Some of them have been forced to take them.

Mr. SNYDER. Have you been familiar with the so-called jobber contracts over any period of time?

Mr. HADLICK. Well, I have watched the development from 1924, on, yes.

Mr. SNYDER. Take the Middle West area, for instance. At what price does the major company jobber buy gasoline from the major company under those contracts?

Mr. HADLICK. Usually it is 5½ cents under the Tulsa price in the publication known as Oilgram, or under the Midwest market of the Chicago Journal of Commerce.

There has been a tendency recently for those contracts not to refer even to that, but simply to the 5½ cents under the supplier's tank car posted at the point, not of shipment, but of delivery, in both cases with a provision for a split in case of a local price war.

Mr. SNYDER. I wonder if you are correct on the first part of your answer.

I will rephrase the question. Prior to the adoption of the Iowa plan, what price did the Midwest jobber pay to his Midwest supplier?

Mr. HADLICK. That depends on how much prior. These contracts of course keep coming on. Before that it was just a contract to guarantee supply. A man bought on the basis of the going price in group 3. That was the usual rule throughout the Middle West.

Mr. SNYDER. Was there not some sort of a clause in those contracts that he bought at the average of the averages of Platt's Oilgram in the Oklahoma market and the Chicago Journal of Commerce in the Chicago market?

Mr. Hadlick. I see. It was not the average of the averages. It was the average of the high and the low, I believe.

Mr. Snyder. Of each of the journals?

Mr. Hadlick. Of each of the journals for that day, the particular day of shipment.

Mr. Snyder. And did he buy, then, at a delivered price, the freight from Tulsa being included?

Mr. Hadlick. If the all-rail shipment came from group 3 usually it was strictly f. o. b., and he paid the freight, but if there was a shipment like from Argentine in Kansas or El Dorado, or any of those points, he would be billed for group 3 plus the saving of the freight. If it was billed from a water terminal or from the pipe-line terminal like Des Moines or Minneapolis, or a point beyond, he would be billed at the delivered price and that would include the freight rate from Oklahoma.

Mr. Snyder. Suppose the gasoline moved from the group 3 area to Des Moines, for instance, by pipe line, and then was shipped a short distance by tank car to this jobber's bulk plant. Did he then pay the pipe-line rate plus the local tank-car rate, or did he pay the full rail freight from group 3 to his bulk plant?

Mr. Hadlick. He paid the full rail freight rate from the group 3 to his bulk plant. I have seen it handled in both ways. That is, sometimes he pays what little freight there is and has added to his bill the difference; sometimes they bill him and they have the freight charged to the refinery.

Mr. Snyder. Normally did those invoices pass on to him the difference between the freight rate and the pipe-line cost of transporting the gasoline?

Mr. Hadlick. If it had no relation to the pipe-line cost it restricted the freight rate.

Mr. Snyder. Now, take another instance.

The Chairman. May I interrupt? Do you mean by that that even though the gasoline were transported by pipe line and therefore at a much less cost, the charge would be made as though it had been shipped by rail?

Mr. Hadlick. That is right. The same would be if a jobber at Sheridan, Wyo., got a carload from Casper, he would pay the price at group 3 plus freight to Sheridan.

The Chairman. Even though it moved by truck.

Mr. Hadlick. That is right.

Mr. Snyder. How about the ability of the independent jobber to buy pumps and equipment and loan them to dealers for the nominal rates which the integrated companies charge for such equipment?

Mr. Hadlick. Well, in that respect we are just like the small merchant buying shelves and fixtures for his store as compared with A. & P. It is a serious handicap, but not one which we could not overcome in the normal processes of a marekting operation standing on what there was in the market to handle the product. Naturally, if a major oil company buys 10 carloads of so-and-so's pumps delivered over a year, they will buy them for probably as much as half what we would buy them for when we buy 2 or 3.

Mr. SNYDER. I believe this afternoon you were questioned at some length as to the effect of the so-called unfair practices upon the independent jobber. I have in mind his financial ability to finance the particular practices, concreting of driveways, painting of stations, paying of electric bills, advertising allowances, and other things. Has he the finances to compete with the major companies on that basis?

Mr. HADLICK. No; he does not. The very fact that these stations are gravitating from jobber distribution to major distribution is the best answer to that. I mean he may not have his own supplier to fight in his market, but he had 9 or 10 others of the majors who are out trying to get those places. I admit that that is a serious problem, particularly with our margin such as it is, but it is not one that cannot be surmounted if this other thing is corrected.

Mr. SNYDER. The 2- to 2½-cent margin would not cover those expenses?

Mr. HADLICK. It just does not, and of course it is one of the factors that is driving the major company's cost of marketing up.

Mr. SHAUGHNESSY. There is one point I would like to make there. A major company would normally bear the expenses of advertising and of delivery to the jobber, would it not, Mr. Hadlick, in a case of branded products?

Mr. HADLICK. Yes; that is right.

Mr. SHAUGHNESSY. So there is a distinct competitive disadvantage against the unbranded jobber.

Mr. HADLICK. Oh, yes; the unbranded jobber has a distinct disadvantage. As a matter of fact, in some cases, Mr. Shaughnessy, the closer the jobber gets hooked up to the major company, and that is this control over his activity, the more they would see that he stays in business, but keep him controlled, and they have been known to let the jobber in on their buying contract for compressors and pumps and things of that kind.

Mr. SHAUGHNESSY. We have been told here that advertising comes to about a quarter of a cent a gallon. I imagine it is at least another cent a gallon for delivery expense.

Mr. HADLICK. Oh, I think, yes; speaking of dealer accounts.

Mr. SHAUGHNESSY. So it would be 1¼ cents.

Mr. HADLICK. That is right.

Mr. SNYDER. Did you attend the hearings when Mr. Dow and Mr. Swensrud testified? [1]

Mr. HADLICK. I did. I believe I missed just a part of Mr. Dow's, but I heard substantially all of it, and I heard all of Mr. Swensrud's.

Mr. SNYDER. Do you agree with Mr. Swensrud that the differential advantages of the majors in transportation are passed on to the consumer?

Mr. HADLICK. I do not agree with him except that they are passed on when they are forced to pass them on by competition.

Mr. SNYDER. In other words, do you give this idea, that if you do not have the independent refiner or jobber to set the competitive pace, then none of the savings would be passed on? Is that your point?

Mr. HADLICK. That is exactly it. If we hadn't had competition I

[1] Testimony of both gentlemen appears in Hearings, Part 15.

think gasoline today would be selling at Portland, Maine, at the group 3 price, plus freight.

Mr. O'Connell. You mean also if the independent jobber were eliminated there would be no competition between the integrated companies which would have the same effect insofar as the price is concerned?

Mr. Hadlick. There would be these spasmodic forays between major companies, yes; even if the jobber were eliminated.

Mr. O'Connell. Are those forays usually on a price basis?

Mr. Hadlick. Not so much as they are on a get-the-dealer basis or get-the-jobber basis.

Mr. O'Connell. I recall when Mr. Swensrud was testifying he indicated that at least insofar as his company was concerned their policy would permit of a reduction in price only after there had been secret price cutting and undercutting on the part of their competitors, and I drew the inference that that sort of undercutting, so-called, was mainly on the part of so-called independents, and it seemed to me that it might follow from that were there no independents in the field and were we left only with integrated companies following the same price policy as the Standard Oil of Ohio, that we wouldn't have so much pressure at least from price reductions. Would that follow?

Mr. Hadlick. That would be the natural thing unless someone in a directors' meeting decided they ought to borrow $40,000,000 and build a refinery at such and such a place and get some outlets. Now, Mr. Swensrud's company, prior to his connection, was the leading marketer in Ohio, but they got down at one time as low as 11 percent and everybody was a leader in Ohio. They adopted strong tactics and went in and brought their percentages back to better than 30 percent, and they used all the known tactics at that period Once they got back to what they thought was normal leadership they went back to normal business and I think perhaps he is describing his present company policy correctly.

Mr. O'Connell. Are the tactics that you refer to that a major company indulges in in an attempt to capture a larger part of the market ordinarily practices which are in the nature of price cuts, or are there other devices for obtaining a larger share?

Mr. Hadlick. Well, there are mainly other devices, except that we will take the dealer business, at one time when the Shell broke into New England it was quite customary, they paid a dealer $500, $1,000, whatever cash advance, a sort of gratuity, if he would sign a contract to buy their products for a year or two, shading all the way from a cash outlay down to painting his buildings and concrete drives and floodlights and compressors and light bills and things of that kind.

Mr. O'Connell. In an industry which operates the way the oil industry apparently does, of having openly posted prices and public announcements of any price change, does it appear to you that a price reduction in and of itself would have any substantial effect insofar as increasing your volume of business is concerned?

Mr. Hadlick. Well, perhaps not.

I don't know just how to elaborate on that. Price information is quick. Everybody knows it. With price leadership, I imagine it is just the thing that happens.

Mr. O'CONNELL. I am just trying to develop in general how much of an incentive there is for a price reduction in the hope of capturing a larger share of the market. If the price reduction is made by a market leader or any other company doing a substantial part of the business, and is followed, as apparently ordinarily happens, by an immediate price reduction by the other suppliers in the industry, just what effect can that have insofar as capturing any more business is concerned?

Mr. HADLICK. I am sure I don't know. The history of the industry simply has been, as Mr. Swensrud very frankly told you, that the market leader took all the market would bear. Independent competition has tended to reduce and encourage them to pass on part of this transportation profit to the consumer, but only when forced to. Maybe you and I would do the same thing.

Mr. O'CONNELL. I have no doubt. It is perfectly natural, it seems to me, for a competitor or anyone in business to attempt to buy his products as cheaply as he can and to sell them for as much as he can and I take it that the regulator is competition, and I always thought the emphasis of competition was ordinarily on price. I am just wondering how much the emphasis is on price in the oil industry.

Mr. HADLICK. I am frank to admit I think the emphasis is on these other things rather than price, and I was trying to think of another industry that had strictly price leadership, but I am not familiar enough with them to know.

Mr. SHAUGHNESSY. Perhaps I can clarify that. You have stated that the major hope of effective price competition in the oil industry is upon the existence of independent refiners for ability to sell under the market. Isn't that true? It follows from that, that at the present there is not effective competition in service stations in your opinion. Is that correct? In price? Because there are substantially no independent refiners supplying major markets in any volume today.

Mr. HADLICK. That is right. The competition is all within this margin that the dealer is tossed, I mean this 4-cent margin.

Mr. SHAUGHNESSY. Hasn't there been any distinction since the Iowa plan was inaugurated?

Mr. HADLICK. Well, in some cases there have been complaints now that the companies were through with the operation of a station, "Get all the gallons through that you can and let the dealer take the thing on the nose." We have had numerous complaints. I think some of them are in the records of the Pennsylvania investigation and others that the salesmen have encouraged them to reduce their price to get more gallonage.

Mr. SHAUGHNESSY. Reduce the posted price or give secret rebates?

Mr. HADLICK. Usually it is, Give secret rebates. In our metropolitan areas it is pretty generally now 50 percent of the market goes in secret rebates, not so secret.

Mr. SHAUGHNESSY. So when you are speaking of price leadership you are speaking of price leadership at the tank wagon rather than the service station.

Mr. HADLICK. At the present time; yes, sir. The price leadership in the service station did occupy a period I would say roughly between 1926 and 1935. There was both price leadership on the tank wagon and on the service station. Since the Iowa plan there is no

attempt generally to lead on the retail market; it is just generally assumed in most territories that the market will be 4 cents and 3½ to retailers.

Mr. SHAUGHNESSY. The Iowa plan was also accompanied by disintegration of these various rules they had under the code, rules against loaning equipment, painting service stations, and all those things are out.

Mr. HADLICK. That is right.

Mr. SHAUGHNESSY. And the retail market then is more or less open to these competitive devices other than price.

Mr. HADLICK. That is right.

Mr. SHAUGHNESSY. And in the price field there are the secret rebates.

Mr. HADLICK. That is right.

The CHAIRMAN. What is the minimum margin on which a jobber can operate, in your opinion?

Mr. HADLICK. Well, there are two factors involved, one is natural terrain, and the other is competition. Theoretically in a market like Richmond, Norfolk, these smaller metropolitan areas, he could probably operate on 2 to 2½ cents. In larger metropolitan areas, take Chicago where they have union rules, two men on a truck, driver and salesman, things of that kind, it might take a little more than that.

The CHAIRMAN. Is there any tendency to recognize that minimum in any of the contracts that the jobbers make?

Mr. HADLICK. Yes; the Continental up to this price war in Denver and in the Rocky Mountain area generally recognized that 3 cents was a fair margin to the jobber. The Standard of Ohio have generally recognized that 2½ was a fair margin. Standard of Indiana only recognizes 2, and there's the rub. Wherever it is 2 cents it seems to be below. I would say roughly it is between 2 and 3 cents.

The CHAIRMAN. When it is recognized, in what manner is it recognized?

Mr. HADLICK. In the posting of a price over and above group 3 plus freight.

The CHAIRMAN. Is there ever any contractual recognition?

Mr. HADLICK. Yes; in a great many cases they will sign a contract guaranteeing under the local market provided that local market is the normal price.

The CHAIRMAN. In many cases? Is that the rule in the industry?

Mr. HADLICK. Well, it is hard to say that it is the rule. I would say that probably 30 to 40 percent of the contracts are that way now. It is the bait that gets a man. It is security, it is the old-age-security plan.

The CHAIRMAN. It doesn't fix the margin; it merely fixes the minimum. It is a guaranty.

Mr. HADLICK. It is a guaranty that it won't go below 2 cents, 2½ or whatever they set or agree upon.

The CHAIRMAN. For what period are these contracts ordinarily made?

Mr. HADLICK. Usually for the period of a year, sometimes with option for automatic renewals unless 90 days' notice is given.

The CHAIRMAN. Have you any other suggestions to make to the committee as to what should be done in your opinion?

Mr. HADLICK. No, sir; just a recommendation to divorce marketing and we would be very happy.

The CHAIRMAN. And your recommendation applies solely to this industry.

Mr. HADLICK. That is the only industry I know anything about. I am going to confine it to that.

The CHAIRMAN. Well, Mr. Hadlick, we are very much indebted to you. Unless some members of the committee desire to ask any other questions, thank you so much for your statement and readiness to answer the questions.

Tomorrow the committee will hear three witnesses, maybe four: Mr. Irving B. Culver, of the National Oil & Supply Co., of Newark, N. J.; Mr. Lester S. Scott, of the Loughborough Oil Co., of Washington, D. C.; Mr. Arnold W. Craft, of the Craft Oil Co., of Avoca, Pa.; and Mr. B. W. Ruark, general manager, Motor and Equipment Wholesalers Association, of Chicago, Ill.

The committee will stand in recess until 10:15 tomorrow morning.

(Whereupon, at 4:35 p. m. the committee recessed until 10:15 a. m., Tuesday, October 10, 1939.)

124491—40—pt. 16, sec. 3——5

INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

TUESDAY, OCTOBER 10, 1939

United States Senate,
Temporary National Economic Committee,
Washington, D. C.

The committees met at 10:40 a. m., pursuant to adjournment on Monday, October 9, 1939, in the Caucus Room, Senate Office Building, Senator Joseph C. O'Mahoney presiding.

Present: Senator O'Mahoney (chairman); Representative Williams; Messrs. O'Connell and Brackett.

Present also: William T. Chantland, representing the Federal Trade Commission; Quinn Shaughnessy, representing the Securities and Exchange Commission; Clarence Avildsen and Robert McConnell, representing the Department of Commerce; Representatives Disney (Oklahoma) and Mapes (Michigan); Hugh Cox, W. B. Watson Snyder, F. E. Berquist, and Christopher Del Sesto, Special Assistants to the Attorney General; Roy C. Cook and Leo Finn, Department of Justice.

The Chairman. The committee will please come to order. The first witness is Mr. Craft. Will you be sworn, please, Mr. Craft? Do you solemnly swear that the testimony you are about to give in this proceeding shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Craft. I do.

The Chairman. You may proceed.

TESTIMONY OF ARNOLD W. CRAFT, MANAGER, CRAFT OIL CO., AVOCA, PA.

Mr. Craft. Mr. Chairman and members of the committee, my name is Arnold W. Craft, part owner and manager of the Craft Oil Co. of Avoca, Pa. First, I wish to express my appreciation for appearing before this committee and because of my inexperience in appearing before such eminent committees I beg your indulgence while I endeavor to be as brief as possible.

We are a small, very small, independent concern.

The Chairman. Are you associated with any other corporation of any kind?

Mr. Craft. We are associated with the Quaker State Oil & Refining Corporation, Oil City, Pa.

The Chairman. In what way?

Mr. Craft. In distributing their oils and lubricants.

The Chairman. But you are not associated with them in a corporate way?

Mr. CRAFT. Not any whatever.
The CHAIRMAN. Do you have any subsidiary corporations?
Mr. CRAFT. We do not.
The CHAIRMAN. Are you the subsidiary of any corporation?
Mr. CRAFT. We are not.
The CHAIRMAN. Where were you chartered?
Mr. CRAFT. State of Pennsylvania; Harrisburg.
The CHAIRMAN. What is your capital stock?
Mr. CRAFT. It is a partnership organization.
The CHAIRMAN. It is not a corporation?
Mr. CRAET. No, sir; partnership.
The CHAIRMAN. How many partners?
Mr. CRAFT. Two.
The CHAIRMAN. What is your investment?
Mr. CRAFT. Our investment is about $26,000.
The CHAIRMAN. Very well.

EFFORTS OF INTEGRATED COMPANIES TO DISCOURAGE COMPETITION FROM INDEPENDENT BRANDS OF PENNSYLVANIA OIL

Mr. CRAFT. We are a small independent concern, operating in 10 counties in northeastern Pennsylvania. We are marketing our own products and distributing, as I stated before, the Quaker State products. This brings us in direct contact with a diversified retail trade; therefore we are bound to become acquainted with their conditions and difficulties. I do not appear here in the interest wholly of the Craft Oil Co. and jobbers or wholesalers, whichever you may term them, in the category that we are in. I also appear here in the interest of a large army of small independent retail businessmen in this industry who know little or nothing about the work of this committee, and because of their inadequate circumstances and limited capacities never obtain a hearing, although we do realize that they are a vital factor in our economy.

It appears while contacting these many independent men that there is a philosophy injected into our economy which has by application been demonstrated to be a dangerous one, and that philosophy is: If an enterprise is promoted and ends in failure then it cannot be considered an economic loss because it merely amounts to money passing from the hands of a larger group of people into the hands of a smaller group of people where it is usually used for more productive purposes. With this I cannot agree, because it is obvious that such a procedure, in effect, narrows the channel through which our wealth must flow, thereby creating control which in itself is power and certainly it cannot be denied that power is force. It is force, and the integrated oil companies have for years lived by force and still are living by force. By narrowing the channel through which this stream must flow, the people become victimized by a system as deadly to free independent enterprise as is, we might say, totalitarianism to their very freedom and liberty.

The economy of a democracy, as I see it in the small business, cannot withstand this onslaught indefinitely. It is the very antithesis of the fundamentals of a democracy. Libertarian economy, free, small independent enterprise is the very lifeblood of a democracy, and in such an economy/there is little or no room for materialistic

collectivism unless we are satisfied to sacrifice libertarian economy in such a changed order.

Gentlemen, with reference to my statement which has been filed with this committee, the question arises—indeed, it is one of great moment and magnitude, otherwise I doubt if this committee would be assembled—are the American people to become an enslaved segment of humanity instead of a civilized democratic segment because of the obvious ills which today are so prevalent in these United States of ours, which has, we are told, been designated as the land of freedom, liberty, and independence.

We may, through devious ways, deny to the people economic liberty, economic freedom, but eventually there will be found hidden away a spark of will and courage, that will be fanned and will ignite, and the will to live will again consume those people, and with our economy foremost in thought, let us refer to my statement for some actual definite information in regard to this grave matter which is so vital to our economy, and that is the small independent business, particularly as I know it in the petroleum business, which is so rapidly being backed out its own back door.

We will refer to this statement with which you gentlemen are familiar.

(Mr. Craft's prepared statement was marked "Exhibit No. 1222" and is included in the appendix on p. 9171.)

We list herein but a portion of the many cases experienced over a period of years. It is our belief that they are a sufficient number, without further burdening you, to assist in definitely proving that the objective of the integrated companies is to destroy independent competition through their devious methods of operation.

Does it not appear that gasoline price wars are perpetrated by these interests to effectuate depressed conditions among the split station operators so that in holding out to them as a bait extra margin on gasoline and other concessions they are enabled to bring them under control? Can we fail to realize that once their objective is gained, and it seems that it will be if present conditions continue to exist, the margin will through devious methods be adjusted downward until the operators of the 100-percent outlets ultimately find themselves operating on the same margin that existed when they were operating split stations?

With these established conditions as prevalent as they are, can we reasonably hope to escape economic distress, particularly in this industry? [Reading from "Exhibit No. 1222":]

Case No. 1. Salsbury Service Station, Chinchilla, Pa. Bought our oil April 19, 1934. 100 percent Sun lease at the time. Two days after delivery we received a telephone call from Mr. Munsey, branch manager for the Sun Oil Company at Pittston, Pa., demanding that we remove the oil and sign from the property of this account because of the fact that the property was under lease to the Sun Oil Company and such lease prohibited Mr. Salsbury from handling competitive products. We did not comply with the demands as made, but continued to sell and deliver our oil to said party until, through antagonistic endeavors of representatives of the Sun Oil Company, Mr. Salsbury eventually discontinued the handling of our products. In contacting Mr. Salsbury shortly after the Sun Oil Company had made their demands for the discontinuing of the handling of our products he related the following. A tourist stopped at his station one morning stating that our sign was the first he had seen for quite a few miles and asked if he had the oil in the S. A. E. 30 grade in sealed cans. When he informed him that he did the owner of the car stated

that he would like to have the oil drained and the crankcase refilled with eight quarts. While this operation was taking place the occupants of the car, who numbered seven, had lunches and refreshments at his place and then filled up with gas, which incidentally was Sun gas, before leaving. The entire sale amounted to over $8. Mr. Salsbury stated that only for our sign he would not have enjoyed this particular sale and was at a loss to understand why the Sun Oil Company should take the stand that they were taking.

The CHAIRMAN. Didn't you say that he had a hundred-percent lease with the Sun?

Mr. CRAFT. That is right.

The CHAIRMAN. Wasn't that reason enough, I mean legally and contractually? We are not talking about the results.

Mr. CRAFT. Legally and contractually at that time undoubtedly so.

The CHAIRMAN. The Sun Oil Co. had a right legally to enter into this contract.

Mr. CRAFT. That is right.

The CHAIRMAN. And he had a right legally to enter into the contract with the Sun Co.

Mr. CRAFT. That is right.

The CHAIRMAN. And if in consideration for the sale of the right to sell the Sun Gasoline and the right to lease a Sun station he agreed to handle only Sun products, that was a binding contract, was is not?

Mr. CRAFT. That is right.

The CHAIRMAN. So the question is not so much whether in particular instances operators, lessee operators, who had 100-percent contracts, wanted to violate those contracts and were prevented from violating the contracts by the protests of the company with whom they had the contracts, as it is to determine from the point of view of public interest whether contracts of that kind which according to your point of view operate to eliminate the independent businessman are proper and desirable. That is our question, isn't it?

Mr. CRAFT. That is right, Mr. Chairman.

We have no quarrel with the legality of those contractual obligations, but it is the fact that the companies upset and distort our libertarian economy. However, should this type contract tend to restrain trade, then its legality certainly would be questionable. The history of this type contract apparently bears out the fact that it has been used for the purpose of accomplishing that very thing.

The CHAIRMAN. The question then comes down to this, not whether you can cite individual instances to bear out your point of view, but whether statistically it can actually be demonstrated that the tendency is toward the elimination of the small independent operator.

Mr. CRAFT. That is the question.

The CHAIRMAN. Now what is your statement with respect to that general question?

Mr. CRAFT. To that question my statement is that due to concessions offered by the integrated companies to these independent retail operators who have been greatly distressed because of price wars which have not been started by the independents, they have found about the only way out is to concede to the propositions offered to them by the integrated companies, and they sacrifice the independence of their station to the 100-percent lease.

The CHAIRMAN. There seems to be no doubt that the major companies have offered various inducements of one kind and another to

obtain these outlets. That has been testified to by practically every witness who has discussed this question, whether the witness represented independents or represented majors, but I have heard it stated that despite the fact that the majors tried to get new outlets, acually there are more independent outlets now than there were say a few years ago. What is your conclusion with respect to that?

Mr. CRAFT. For clarification on that independents, just what do we mean when we say independent? Do we mean a station that is operating outside of the realm of company owned stations?

The CHAIRMAN. When I speak of an independent in this instance, I mean men like you.

Mr. CRAFT. No; I can't agree with that. With the independents like ourselves that have been able to survive it is because of the fact that we have added probably side lines in order to meet our pay rolls and keep our little industry together, where if we were to wholly depend upon the petroleum industry, because of our outlets being so limited that it is only a matter of time when we would close our doors and still further add to the unemployed.

The CHAIRMAN. Well, there were four gentlemen on the stand last week [1] who testified that there is an increasing number of undivided stations; that is to say, an increasing number of stations which are under contract with the majors to sell only the products of the majors.

Mr. CRAFT. I beg pardon. Did you say an increase?

The CHAIRMAN. Yes. Is that your experience?

Mr. CRAFT. That is right.

The CHAIRMAN. Now if it were stated that as a matter of fact that is not the case, what would you say?

Mr. CRAFT. Well, I would say then, particularly in the territory in which we operate, that I either am unable to make the proper deductions from observation, or else someone has just given misinformation, or else that might predominate in other places in the United States.

The CHAIRMAN. So far as your experience is concerned, you are testifying quite to the contrary, that the independent is being gradually eliminated?

Mr. CRAFT. Absolutely.

The CHAIRMAN. And turned into either an employee or a controlled lessee by the trend in the industry?

Mr. CRAFT. That is right.

The CHAIRMAN. Now is that in your opinion general throughout the country?

Mr. CRAFT. With every independent that I come in contact, and talk with, that is their story, and I have canvassed from Jersey City to Chicago and St. Louis.

The CHAIRMAN. When you say you have canvassed, what do you mean? What have you done?

Mr. CRAFT. I mean that I have conferred with the independents, with independent organizations; I have labored in, so to speak, furthering the cause of the independent in a way that they could see what was happening to their business and the future of their families by becoming a controlled outlet.

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[1] See testimony of Messrs. Grisell, Reitz, Suhr, and Ramsdell, Saturday, October 7, 1939; included in Hearings, Part 15.

DIVORCEMENT OF MARKETING RECOMMENDED

The CHAIRMAN. Well, now what do you think ought to be done?

Mr. CRAFT. Well, of course, Mr. Chairman, my opinion is very insignificant as compared with the opinions and findings of this committee. I realize that.

The CHAIRMAN. Don't entertain that opinion at all. This committee is just a group of ordinary persons who happen for a brief time to have a little responsibility; that is all.

Mr. CRAFT. In answering the question, I would say divorcement of marketing from other branches of the industry. Just so long as a company can subsidize any other department that they are operating wholly to their advantage, not to the advantage of the general welfare of the public, particularly then consider that department. The independents, whether jobbers as we are or whether an independent little businessman on the corner, cannot compete fairly with such operations because they have very limited assets to draw from.

The CHAIRMAN. Well, it boils down to a conclusion on your part which apparently is shared by many others, that the integrated company does not serve the public interest so far as it tends to eliminate the small independent free enterprise.

Mr. CRAFT. True, I do, because of this fact, that when we have a changed order, which this is bound to bring about if it continues, it eliminates the possibility of the sons of today entertaining a proposition in business; they become more or less a subject, controlled by those who have——

The CHAIRMAN (interposing). They become employees instead of entrepreneurs, as the economics books have it?

Mr. CRAFT. That is right, Mr. Chairman.

The CHAIRMAN. Well, of course, that is the question.

Mr. CRAFT. The question is to eliminate that?

The CHAIRMAN. I mean that is the question which the country has to decide, I suppose.

Mr. CRAFT. That is true.

The CHAIRMAN. If we assume the premise?

Mr. CRAFT. Well, that is very true, too. Now should I go on with the next case?

The CHAIRMAN. Well, we have all these cases here. I don't know that it will add much.

Mr. CRAFT. We do have some others that I would like to mention that have happened since filing the statement, if I may.

The CHAIRMAN. We would be very glad to have the statement.

Mr. CRAFT. Our salesman called on a gas station, split station, Herbert S. Miller, Allentown, on Nineteenth Street, sometime ago and Mr. Miller related to him that Mr. Stahlnecker, the representative of the Sun Oil Co., had called on him the day before and notified him that he must either go 100 percent Sun or they would pull their pumps. Well, Mr. Miller happened to have some American spirit still left and he said, "Well, take your pumps."

Mr. Stahlnecker said, "Well, now just a second; don't be too hasty about this. Major companies are out to clean up the split-station situation. You might just as well make up your mind and go 100 percent Sun as 100 percent something else. Now we will pull

our pumps; the argument is left between the two other companies; they make the same demands; one of the other companies will pull their pumps and you are left 100 percent, and what are you going to do about it?

Now, we have other cases, too, where the same thing has happened.

The CHAIRMAN. Do you mean that in this instance there were three sets of pumps on the station?

Mr. CRAFT. That is right, and, of course, he would enjoy an additional half-cent a gallon by conceding to a lease proposition as 100 percent. Now to my mind—maybe I am wrong on this—but giving to a 100-percent lease agency outlet a better price on his gas than they do to the adjoining station, operating as a split station would be contrary to the Robinson-Patman Act when gallonage is not considered. For instance, if you are operating 100 percent Sun station on the corner and I am on the next corner, operating a split station, I also have some of the same products. I may sell twice as much gasoline as you sell, but I pay a half-cent more for my gasoline than you pay. Now to my understanding, and to the interpretation that has been handed to me of the Robinson-Patman Act, that is contrary to that act, and that is one of the baits that is being used.

Also cases where we contact a customer relative to quantity purchases. I contacted one person not so long ago and he had quite a supply of Capital Oil in 2-gallon cans, three to the case, which is put out by the Atlantic Refining Co., and I mentioned the fact that we could sell him our 2-gallon can and would be glad to do so. He said, "I don't think you can meet the price." I said, "What do you mean?" He said, "You go down to the Atlantic Refining Co.'s bulk plant in Scranton and buy a case and deduct 13 cents and that is the price that I pay."

"Well," I said, "I don't think we can meet that. That is carload price." He said, "I am getting the carload price." "If you care to buy a carload, I will quote you a carload price." He said, "But I don't buy a carload." I said, "Do you mean you get the carload price but you don't buy the carload?" He said, "Well, the salesman comes along and he takes orders for so many cases here and so many cases there and so many cases at the other place, so on down the line, until he has enough orders to make up a carload, and he puts us in on the carload rate, and when that is delivered we either pay the driver or the salesman—we get no receipt, we get no bill; it is all invoiced to the fellow down at the end of the line, and when the fellow gets down that far it is credited to the invoice."

We cannot meet any such competition or conditions as that; we are not attempting to, because I myself believe it is contrary to the laws which are today on the statute books and they say, "Well, why pay any attention to the Robinson-Patman Act; the rest are not paying any attention to it, why should you?" I am labeled up there as an erratic, a fanatic, or anything they can call me, simply because we won't resort to the tactics we find in the field. Now, those tactics are going to continue and we hope to continue to operate in the same field, and we are going to be forced eventually to resort to those conditions, to those tactics, or else there is only one thing left, quit business.

The CHAIRMAN. Well, of course, I think it is obvious to most observers that for 50 years the legislative objective has been to maintain a small business against—or rather to defend the small business against the inroads of big business. That was the purpose of the Sherman antitrust law, to begin with, but in spite of good intentions and laws which may be good or bad, the steady tendency has gone the other way, and big business has become bigger and the discrepancy between the so-called giant economic unit and the free, independent enterprise has been getting greater all the time.

Perhaps we are in a trend that we can't control.

Mr. CRAFT. Well, do you, Mr. Chairman, really believe that it is a trend?

The CHAIRMAN. I am not expressing a belief. I am asking questions; I am trying to find out.

Mr. CRAFT. I am sorry. Evidently by——

The CHAIRMAN (interposing). You seem to be of a philosophical turn of mind; therefore I was prompted to ask you the question.

Mr. CRAFT. I am sorry; I misunderstood. I believe by observation, practical experience, as limited as it may be, that it is uncontrollable so far and that is why I am concerned about this economic distress and disorder, not simply because I may be the only one ground between the millstones, but if we are going to concede to the possibility of legal technicalities—and, we would say, sharp practices—determining these things, then certainly they will be uncontrollable, because with all legislation and with an attempt to control these things, you still cannot stultify the minds of those who are operating the levers of this gigantic proposition. Now, if we are just going to legislate and then find that that legislation is going to be disrespected as it is, what alternative is there? We don't seem to get any action, because they just continue their operations in defiance of the laws that are already enacted.

Representative WILLIAMS. Then you don't believe it is necessary to enact any further legislation in the matter?

Mr. CRAFT. I believe if we had enforcement, representative enforcement—when I say that I don't wish to cast reflections and don't misunderstand me, gentlemen; I understand and am ready to acknowledge the fact that this is no small thing to contend with; there are many ramifications. When you start out on one track, the first thing you find is that you are into a situation where you have one thousand and one switches all thrown in front of you, and you are almost at a loss to know which to take. I realize that, but I do think if we would start and take into consideration the fundamentals of our economy and enforce the laws already on the statute books, I think we would get more results than we would to becloud the issue by enacting further legislation and after a while they become lost in the shuffle, and we are all confused on the issue.

Representative WILLIAMS. You seem to think you have a number of cases where there has been violation of existing law.

Mr. CRAFT. Beg pardon?

Representative WILLIAMS. You seem to think that you know of a number of cases where there is a violation of existing law as you understand it.

Mr. CRAFT. That is right.

Representative WILLIAMS. Have you brought that to the attention of the enforcement officers in that jurisdiction?

Mr. CRAFT. In that jurisdiction?

Representative WILLIAMS. Yes.

Mr. CRAFT. I have communicated with the Department of Justice and the Federal Trade Commission on various counts. That is how this statement of mine happened to have been filed with this committee, was because of my complaints to those two bodies, particularly to the Department of Justice. Pardon me.

The CHAIRMAN. I didn't want to interrupt you, but I was about to remark that if you had an opportunity to sit with the Appropriations Committee of either the Senate or the House while the various departments and agencies are seeking funds with which to operate, you would probably get a picture of why enforcement is not as easy as it sounds.

When the Robinson-Patman Act was passed and certain responsibility was placed upon the Federal Trade Commission to enforce it, the Federal Trade Commission appeared before Congress and asked for an appropriation which in its opinion would be adequate to permit it to carry out its responsibilities under the act. It didn't get the appropriation that it sought, and as a result complaints piled up, letters piled up asking for information, and the Trade Commission was physically unable to handle the job. I have been on the Appropriations Committee when the Department of Justice has appeared before it asking for money with which to enforce the laws now on the statute books, and there was much argument about it and about as to whether or not the Department of Justice should receive the money. We have had several outstanding illustrations of how difficult it is to enforce a law if the circumstances of life generally are running against the law. That was the experience, the outstanding experience, with respect to prohibition; the law against the manufacture and sale of intoxicating liquor was perfectly clear and everybody knew just what it meant; there were very few technicalities involved in that prohibition, and yet it was impossible to enforce it.

Mr. CRAFT. That is true because it probably was against the wishes of the people, which after all, as I stated before in my opening address, the will of the people is a mighty power, or words to that effect. Pardon me just a second, but referring to the gentleman's question recently wanting to know if we had brought it to the attention of, did you say, local authorities, may I ask?

Representative WILLIAMS. I said the authorities that had jurisdiction of the investigation, whatever it was.

Mr. CRAFT. May I ask the question, being a Federal act, would there be anything outside of the Department of Justice or Federal Trade Commission, to whom we might direct our complaints?

Representative WILLIAMS. I would think not; perhaps the district attorney in the jurisdiction of that violation, which of course is a branch of the legal department of the government.

Mr. CRAFT. That would be our proper procedure, then, to take it up with the Federal authorities at Washington?

Representative WILLIAMS. I wouldn't say particularly Washington, but I would say some of the local authorities, perhaps, that have

jurisdiction of it, naturally upon the character of the violation that you have in mind.

Mr. Craft. Would it not be timely, then, for the Department of Justice to so direct our complaints or advise us to direct them to some local authority that might be in charge of such things?

Representative Williams. Do you know what they have done?

Mr. Craft. No; truthfully, I do not. They have answered all complaints very courteously, but beyond that I couldn't say. We haven't had any action on those complaints against those complained against.

Representative Williams. In accordance with your own statements you seem to think we already have legislation covering these violations. If that is true, there is nothing else for us to do here so far as perfecting the legal machinery on that question.

Mr. Craft. I believe that we do have legislation that will help, if we get the enforcement, but I believe that there will still be a way found around because of other concessions that are offered which legally, with the existing conditions, might be accepted, and unless we have further legislation to curb that, probably this will continue, and if we have legislation to curb that it may be necessary a few years later to again call together such a committee to further legislate.

Representative Williams. As I understand your statements, you have a number of cases here which you consider violation of the law as it exists now, and that you have no further suggestions as to the manner in which that law should be amended to perfect it and prevent further violation of the law.

Mr. Craft. No.

The Chairman. You did suggest divorcement.

Mr. Craft. Yes; I do not wish to convey the thought that I believe that we have legislation at the present time that will wholly take care of the complaints that I have made; no.

Representative Williams. Then what is your suggestion?

Mr. Craft. As I suggested to the chairman, that we have divorcement of marketing from other branches of the industry, and I do believe that there is another phase that should be considered, and that is that we should have true and adequate representation of small stockholders, and have labor on boards of directors of various companies in the United States, so that we can keep some of these things from creeping in because we have a governor upon the activities of the boards of directors that more or less certainly engage, or at least they release, information which brings about the engagement of these affairs.

Representative Williams. Have you any suggestion as to how that can be accomplished when the boards of directors are elected by the stockholders of the corporations?

Mr. Craft. Well, yes. Fortunately, or unfortunately, you might call it, I have been the owner of some of these gilt-edged bonds and securities they talk about, but, frankly, I can find that our wishes and opinions are never complied with, and when we write in to the secretary who has requested the proxies and state our views on the various things because of the fact that they do affect our economy, it just becomes a joke. I would like to say that I believe that I should be represented. I can go there; I can't even get the floor;

I am talked down; I have no opportunity. I think that we should. You probably are aware as well as I am that the machinery is so set that we never get a hearing. The same with labor. I believe that in the early years of the '26 administration if we had legislation to that effect instead of these great mergers that were experienced we never would have had the '29 catastrophe, never would we have experienced the distorted labor conditions in this country that we have in the past several years. They all affect our business; that is what I am talking about, I am not deviating from the small independent businessman. We are in the jaws of a vise, and there is plenty of power on the handle that is constantly being tightened up.

The CHAIRMAN. Are there any of these cases to which you want to refer particularly?

Mr. CRAFT. There are just one or two, if you don't mind. I would like to refer to case No. 2 for just a second. [Reading from "Exhibit No. 1222"]:

Hess Auto Supply Company, 715 Main Street, Bethlehem, Pennsylvania, was a split station at the time we first sold him. Later on changed, as we have said here, to a hundred percent Sun. He did this because of the extra margin he received on his gasoline.

In 1933 they purchased from us 2,425 gallons of motor oil. The Sun Oil Company took exception to that. In the early part of 1934, Mr. Hess was notified by the Sun Oil Company representative that he must discontinue handling our products or lose his courtesy-card privileges, and Mr. Hess objected to the way that the Sun Oil Company approached him on the subject, and told them to remove the sign and to cancel the courtesy-card privilege, that he saw fit to continue to handle our products. He did and they removed the sign and canceled the courtesy-card privilege.

That is stated merely to prove that there is intimidation connected with these contracts. [Reading further from "Exhibit No. 1222"]:

No. 13. Geiger Service Station, Cedar Avenue and Elm Street, Scranton, Pennsylvania, 100 percent Socony-Vacuum. Socony-Vacuum leases the property from Mr. Robert Geiger's father on the rental basis of $80 a month and then releases it to Mr. Robert Geiger on the rental basis of $40 per month. Mr. Geiger handled our oil and displayed our sign until it mysteriously disappeared.

Sometime later we placed another one of our signs on the curb line just inside the line of the adjoining property so that it would not be on the property leased by the Vacuum Oil Company. Recently this sign disappeared. Mr. Geiger informs us that the Vacuum Oil Company salesmen removed the sign. They constantly object to his handling our oil.

Now I might state further that they have discontinued entirely our product since; the market has been lost entirely.

Going back to case No. 11, there is a particular case I would like to mention, 100-percent Atlantic. They had been buying our oil and displaying our sign. The Atlantic Refining Co. objected to it, and they prevailed upon him to remove our signs and displays several times, and we prevailed upon him to move them back for display, because as soon as the sign was moved back out of sight the sale of our oil decreased. When our sign was again moved to display our sale again increased, until later the Atlantic Refining Co. salesman called on him and told him that he must definitely discontinue the display of our sign, or that they would take action.

They were paying him $50 a month rental for his place, and he was buying gasoline for a half a cent cheaper than the split station. He stated to the Atlantic Refining Co. that he could not afford to discontinue our product because of the fact, he said, "The gentleman in

the car with me will use nothing but that; if I do not have it, I lose his business." He said, "Well, discontinue the display of the sign, and if you have to handle it, give it only to those who demand it."

Later on I met this salesman in the place and talked with him about the case. He said, "Well, wouldn't we be fools to go into these places and spend the money that we are spending and allow competitive products in there? What would be the objective? We have no object in doing such a thing. That is why we spend money." I said, "In other words, you are telling me that these expenditures are primarily for the purpose of eliminating competition; it gives you absolute control?"

He said, "That is right." I said, "Furthermore, we know that your primary product is gasoline; therefore you must reach out into the Mid-Continent and the Western fields for a crude that will produce enough gasoline to supply the demand." He said, "That is right."

"Therefore lubricating motor oil becomes secondary with you?"

"That is right."

"In other words, then, you are going to create control of the outlet whereby you can shove down the throats of the consuming public what you wish to, whether they want it or not, because there is no choice. If he drives into those stations he can't buy any other oil."

He said, "That is right."

The CHAIRMAN. The testimony here the other day by one of these four gentlemen,[1] I think, was that the Quaker State Oil was handled by the Standard of Indiana in its territory at its stations.

Mr. CRAFT. That is correct.

The CHAIRMAN. Do you know of any other such instance?

Mr. CRAFT. No; I do not. They act as the distributor in their respective territory the same as we do in the territory which we have with them for distribution.

The CHAIRMAN. According to this last instance, the salesman didn't object so much to the actual sale of the Quaker State oil as to the display of the advertising.

Mr. CRAFT. Yes; he did, because when he objected to the display of the advertising and the sign he knew that that inadvertently would affect the sale, so he didn't just come out definitely and say, "Don't sell it," but he knew that he was taking a procedure which would affect the sale.

The CHAIRMAN. Of course it would tend to confine the sales to those purchasers who came and asked for it particularly.

Mr. CRAFT. That is true, and that is what he said, "Only sell it in cases where you absolutely have to."

I would like to make one further reference. According to the record, or as I read it, Mr. Pew made a statement before this committee, if I may refer to it—may I?

The CHAIRMAN. Yes.

Mr. CRAFT. "Natural economic laws are all at work in the oil industry." Now this "natural economic laws" I think is quite a broad statement. Sometimes we become confused upon that natural law or

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[1] See footnote 1, p. 8897, supra.

natural right, and I would like to read if you don't mind from an article that is very short, if I am not taking too much of your time, by a columnist, Dorothy Thompson, on this natural right. May I?

The CHAIRMAN. Yes.

Mr. CRAFT. I think possibly it might clarify the issue a little bit. [reading from Miss Thompson's article:]

> The evolution of a privilege into a natural right and into the demand for further privileges which will become further rights is a fascinating subject. We have scores of unfortunate examples in our history, and with a seemingly worthy zeal to develop the resources of this country with the greatest expedition we as a Government offer special privileges to capital in the form of protective tariffs, rights-of-way over land, monopolies of mineral resources, and what-not. These grants of special privileges then became for capitalists——"

Don't misunderstand me, I have nothing against the capitalists; I am a small one myself, but this is an illustration.

> a natural right, although a few far-sighted conservatives like John Quincy Adams, whom nobody at the time listened to because they said he was a reactionary, foresaw that the grants would bring serious social maladjustments in the future. Reform governments who tried later to take back to the Government that originally granted them some of these privileges or to modify them or to make the granting of them subject to some sort of social control, were met with the fury of men deprived of something which in their minds were no longer privileges granted, but rights deriving apparently from nature itself, rights that were, it seemed, part of God's plan.

Now why I bring that out is that I believe that when we refer to natural laws at work in this industry, it simmers down to this— rights, rights that have been obtained by those who are in the driver's seat, and that is the reason I wish to bring out that point.

I also wish to make one statement. You asked if I had anything to suggest. I believe that divorcement of pipe lines, which is entirely out of my line, would have its effect on the marketing branch of the industry because they could not subsidize one department to take care of the losses that might be effected in another to bring about distressed conditions whereby they bring the fellows under control that they wish to.

The thing that I just can't undersand is that pipe lines enjoy the same eminent right of domain as the railroads do. If I have a farm of a thousand acres and the pipe line people wish to cross that farm, there is no way I can stop them, they cross the farm. After the completion of this pipe line, if I as a farmer having a thousand gallons of milk to ship to the city market daily, contact that pipeline management requesting them to handle my milk to the city markets, I am immediately told to take it to the railroads. The railroads must be equipped to handle anything and everything whether it makes money for them or not. I believe that if the pipe lines are not divorced, whether they are or not, if they were brought under strict control of the Interstate Commerce Commission and had to equip themselves with facilities for handling any such commodity that may have to be shipped to the markets, it would help solve some of these problems that we are experiencing in the marketing end of the industry. I think it would help solve some of the other problems of the railroads becoming scrap heaps. Certainly, then, too, if I am a merchant on that corner over there, operating a store, and you are

on this corner here and you are benefiting by the free delivery, no freight charge, where I must pay it, I am sure to pass out of the picture.

Mr. SNYDER. I think I have one question, Mr. Craft. Will you please refer to your case No. 24?[1] What year did the Tulsa Petroleum Co. become a 100-percent distributor of the Standard Oil Co. of Pennsylvania? Do you recall?

Mr. CRAFT. I couldn't give you the exact date, but I believe it was 1937.

Mr. SNYDER. Prior to that time, do you know by what method they were obtaining their gasoline?

Mr. CRAFT. They were buying, as I understood it, on the open market.

Mr. SNYDER. They were in the position of jobbers in Standard's area?

Mr. CRAFT. To this extent, they had the name Tulsa copyrighted and opened several stations of their own and then interested other operators in investing in the company and opening up stations to whom they acted as a supplier, and in that way, yes, they would be classed as a jobber.

Mr. SNYDER. Do you have any knowledge as to why they went over to the 100-percent operation basis rather than continuing on the open tank car market?

Mr. CRAFT. Why, I will relate to you what Mr. Philbin related to me. He said there were certain advantages in the display of the Standard sign because of the traveling public, they could benefit by sales at their stations located on the routes into the city by appealing to the traveling public who are acquainted with that name.

Mr. SNYDER. Did he tell you anything about the shrinkage of the margin of profit from 1935 to 1936?

Mr. CRAFT. No; frankly he did not refer to that matter.

Mr. SNYDER. I have reference to the chart which Mr. Hadlick placed in evidence yesterday for Scranton, Pa.[2] It shows that in 1936 the jobber margin became a loss of a little over one-half cent. In 1937 it became a profit of about a third of a cent, and I was asking Mr. Craft to see if that was one of the reasons this semi-jobbing outfit went out of the independent business and became a 100-percent distributor with a guaranteed margin.

Mr. CRAFT. May I further state relative to that that he did state, "As you know, Mr. Craft, it is harder to make a profit today than it has ever been in this business." It was during the price wars that were prevalent at that time, and during that time the tank-car margin was not as great as it had been prior to the gasoline wars.

Mr. SNYDER. Prior to the gasoline wars it had been as high as 2¾ cents at times, apparently, from this chart.

Mr. CRAFT. That is right.

Mr. SNYDER. Are there any jobbers in the Scranton market today?

Mr. CRAFT. Tulsa continues to handle their Tulsa brand.

Mr. SNYDER. In conjunction with the Standard of Pennsylvania brand?

Mr. CRAFT. That is right.

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[1] Appendix, p. 9174.
[2] "Exhibit No. 1213," appendix, facing p. 9166.

Mr. SNYDER. Are there any independent jobbers operating in the area besides the Tulsa?

Mr. CRAFT. Do you mean marketing an independent gasoline or a major gasoline?

Mr. SNYDER. Selling either an independent brand or a major company brand to filling stations.

Mr. CRAFT. Yes; there are.

Mr. SNYDER. Are any of them selling their own brand exclusively?

Mr. CRAFT. Not that I know of, not a one, not to my knowledge.

Mr. SNYDER. Then all of them do sell, to some extent, major company brands.

Mr. CRAFT. That is right.

The CHAIRMAN. Are there any questions?

Mr. Craft, we are very much indebted to you.

Mr. CRAFT. Thank you, gentlemen.

(The witness, Mr. Craft, was excused.)

The CHAIRMAN. The next witness will be Mr. Culver.

Do you solemnly swear that the testimony you are about to give in this proceeding shall be the truth, the whole truth and nothing but the truth, so help you God?

Mr. CULVER. I do.

TESTIMONY OF IRVING B. CULVER, SALES MANAGER, NATIONAL OIL & SUPPLY CO., NEWARK, N. J.

The CHAIRMAN. Give your name to the reporter.

Mr. CULVER. Irving B. Culver.

The CHAIRMAN. What is your position?

Mr. CULVER. Sales manager of the National Oil & Supply Co.

The CHAIRMAN. What is the National Oil & Supply Co.?

Mr. CULVER. A corporation in the State of New Jersey.

The CHAIRMAN. A State of New Jersey corporation?

Mr. CULVER. Yes, sir; incorporated in 1901.

The CHAIRMAN. How many stockholders?

Mr. CULVER. There are three stockholders who belong to the family, Arthur Phillips and his family.

The CHAIRMAN. What is the capital stock?

Mr. CULVER. In 1901 it was $60,000. I don't believe that has been increased.

The CHAIRMAN. Is it a subsidiary of any corporation?

Mr. CULVER. No, sir.

The CHAIRMAN. Does it have any subsidiaries?

Mr. CULVER. It has not.

The CHAIRMAN. How long have you been sales manager?

Mr. CULVER. Ten years.

Gentlemen, I assure you I will be brief and stick to the facts pertaining to our business.

DIFFICULTIES OF AN INDEPENDENT IN MARKETING PRODUCTS

Mr. CULVER. We distribute Quaker State motor oil and greases in 21 counties in New Jersey and all of Metropolitan New York, employing on an average of 100 employees. Our statement filed with your committee [1] outlines in detail the difficulties of our company, an

[1] Admitted infra as "Exhibit No. 1223.

independent distributor, in marketing our products to gasoline stations, garages, car dealers on the highways, and in the towns and cities. During the year of 1938 we lost to 13 major oil companies 172 accounts who leased and released agreements whereby the dealer was given to understand that he would not be permitted to sell or display any merchandise other than that of the major company with whom he made the agreement.

In our statement we have listed these accounts by name and shown the names of the companies to which we have lost them.

One of the existing practices of the major oil companies is the refusal to honor credit cards of a dealer who displays our products or advertising pertaining to these products. On one highway alone between Trenton and New York City, No. 1 Highway, in 1936 we had 51 Quaker State displays, signs, advertising our product to the motoring public. Today we have 5. In many instances after a salesman has opened an account and the merchandising signs are displayed, the dealer is called upon by the salesmen of the major oil company and told that unless he discontinues the display of Quaker State products he will lose his credit card business, and in most cases the customer then notifies us to pick up our merchandise.

Another method employed to discourage the sale of our material is to promise a dealer new equipment, repairing, painting, providing he discontinues the display and sale of our products.

Many of our accounts have contracts—that is not a lease and release—contracts where our account contracts to purchase gasoline and oil from the major oil companies; that has nothing to do with the lease and release. Those 172 accounts that we lost through lease and release are definitely lost. We call on them, naturally; we also sell alcohol during the winter season, but it is impossible to sell that type of account our merchandise. These accounts I am talking about now are contract accounts. Many of our accounts who have contracted with the major oil companies are obliged to botleg our oil and keep it hidden in closets, back rooms. In these cases our salesmen make a notation on the order to stop the delivery truck a block away from the customer's place of business and make the delivery only if no representative of the major oil company is present. Under those conditions and without proper display of our material and advertising, our sales have been reduced to about 10 percent of what they would normally be were they freely displayed and advertised. Where our signs and material are displayed freely, we can get our normal amount of business, but where we have to remove all merchandise and it is hidden away in closets, signs are hidden away or picked up, our sales are only 10 percent of what they should be at that particular station or stations.

We have in the past enjoyed an excellent business with car dealers. The major companies in attempting to secure this business from us do not try to sell their products on the merit of the product, but offer all kinds of inducements such as furnishing lists, air compressors and modern lubrication equipment, the cost of which runs into hundreds of dollars. They sign the dealer up for a period of years. He pays for the equipment from rebates or on a depreciation basis. On this latter basis the Tidewater Oil Co. depreciated a $500 expenditure at the rate of $11 per month, with a cancelation clause. This gives them the advantage of having this business 100

percent for a period of close to 4 years. By reason of restraints imposed by the major companies normal channels of trade are being closed to us and the sales of our product, which has national consumer public acceptance, have been so seriously curtailed that they have reached a point where our very existence is threatened.

That is, in brief, gentlemen, all I have to say.

Representative WILLIAMS. In these leases and releases that you speak of, are there any provisions where it is relet to the owner, that he shall handle exclusively the products of the company?

Mr. CULVER. No, sir; they are very cleverly drawn up but he is instructed by the company's salesman or representative, in fact he knows he can't handle it; it is common knowledge and he will not handle it.

Representative WILLIAMS. For how long are those leases made?

Mr. CULVER. Usually for 1 year, sometimes 3, depending on the amount of construction or repair work or what have we?

Representative WILLIAMS. That would leave them in a position to cancel that lease, I assume, on very short notice.

Mr. CULVER. I believe it is 5 days' notice that they can cancel that lease. In some cases I have known these leases and re-leases to change hands five times in 1 year.

Representative WILLIAMS. You spoke of the contracts.

Mr. CULVER. Yes, sir; in other words, an independent has a contract to purchase oil and gasoline, a gasoline and oil contract; he owns the station, but in order for him to enjoy the benefits of the credit-card and the courtesy-card privileges, he is not allowed, or he is told he is not allowed, to handle any other products.

Representative WILLIAMS. Is there an exclusive clause in that contract?

Mr. CULVER. There is not.

Representative WILLIAMS. But that is the understanding orally at the time it is made?

Mr. CULVER. That is correct. We have hundreds of such cases. I have them here with me. I am not going to take the committee's time to read them. I know it is a repetition. I have hundreds and hundreds of them, why the dealer cannot handle their products.

Representative WILLIAMS. Is that the general practice?

Mr. CULVER. That is the general practice in the major oil companies, to squeeze the independents selling to their stations.

Representative WILLIAMS. Do you think as a result of that the independent jobber and dealer are gradually disappearing?

Mr. CULVER. There is no doubt about that. Our business normally in 1936 was a little over a million and a quarter dollars, that is gross business, and in 1938 our oil sales were off 30 percent.

Mr. AVILDSEN. Mr. Culver, tell us about the dealers to whom you do sell this Quaker State oil. Do they also sell gasoline?

Mr. CULVER. Yes; with the exception of car dealers. I don't quite get your question.

Mr. AVILDSEN. I assume you have lost a lot of business but you have retained some of it.

Mr. CULVER. Here is what we do. On the contract agreement to buy gas and oil we retain it, we sell those accounts, yes; but where they do not display the oil and advertising material, our business has dropped at least 90 percent at those stations.

Mr. AVILDSEN. Now, do you mean to say none of your dealers display signs?

Mr. CULVER. Yes, sir.

Mr. AVILDSEN. How about the man that does display a sign?

Mr. CULVER. He has a normal run of business and our business at his station goes along in a normal way, and in a good year we have a pick-up, or a bad year, a loss.

Mr. AVILDSEN. Now, what I want to know is where does he buy his gasoline? What does he do that permits him to put up a sign advertising Quaker State?

Mr. CULVER. He has a credit card, a credit sign, where he handles our product in defiance——

Mr. ALVIDSEN (interposing). Does he get the same price on gasoline?

Mr. CULVER. He gets the same price, except he does not get the privilege of displaying the credit card.

Mr. AVILDSEN. Your problem has been to convince the dealer that he is better off handling Quaker State and advertising it and giving up the credit card?

Mr. CULVER. Quite so, and we have hundreds of them that do that.

Mr. AVILDSEN. Do those men actually make more money than the dealers who don't display Quaker State?

Mr. CULVER. Well, that all depends on location; that all depends on location. In cities, no. The major oil companies have done a wonderful job in selling the consumer to use the credit card. I wouldn't be a bit surprised but what you have received a letter from some major oil company asking you to use their credit-card privileges. You sure would if you were taking a trip or had written to them at any time for a road map or such information, and when you are accustomed to using a credit card it is very convenient to pull into a station and hand your credit card in.

Mr. AVILDSEN. Then the credit card is the chief factor?

Mr. CULVER. It is in our case.

Mr. AVILDSEN. In taking this business away?

Mr. CULVER. It is in our case.

The CHAIRMAN. What inducements have you offered to dealers?

Mr. CULVER. We follow one straight course. We have our products to sell at a certain price, and we haven't—we don't feel we are financially able, if we could, and we don't feel it is good business.

The CHAIRMAN. What has been your sales practice?

Mr. CULVER. In reference to dealers? You see, we handle no gasoline, Mr. Chairman.

The CHAIRMAN. That is what I understand; you are selling the Quaker State oil. Now, how have you gone about it during all of these years, since 1922?

Mr. CULVER. Well, we sell our merchandise at a published price, the same price to everbody. We have no two prices in our set-up.

The CHAIRMAN. Well, now, if you were coming to me, I was operating a retail station, what argument would you use with me to prevail upon me to sell Quaker State oil?

Mr. CULVER. We would probably talk to you about consumer consumption or consumer acceptance, public acceptance, the amount of

advertising that Quaker State do to keep the Quaker State brand before the public, and we would show you our advertising kit, for instance, the letters we can send to your customers which are sent out by the refinery, purely from an advertising point of view. It is the only possible way I could get your business.

The CHAIRMAN. That would be one factor. Anything else?

Mr. CULVER. Nothing else whatsoever.

The CHAIRMAN. Quality?

Mr. CULVER. Well, quality.

The CHAIRMAN. That is included in the advertising?

Mr. CULVER. Yes.

The CHAIRMAN. Price, no inducement on price?

Mr. CULVER. Absolutely none.

The CHAIRMAN. How does your price compare with prices charged for competing products?

Mr. CULVER. Well, our price—we call it a premium oil, and it is higher in price than any other oil on the American market.

The CHAIRMAN. So your whole task is to sell a superior product at a fixed price on the ground of consumer demand?

Mr. CULVER. That is correct, and we are very successful in doing it where the stations are not close.

The CHAIRMAN. And you have never offered any concessions?

Mr. CULVER. No, sir; we do not.

The CHAIRMAN. Now you are an agent of the Quaker State Co.?

Mr. CULVER. We are the distributor for them.

The CHAIRMAN. Do you distribute on a commission?

Mr. CULVER. I wouldn't say distributor, or jobber, you may call it.

The CHAIRMAN. You distribute on a commission or margin?

Mr. CULVER. We employ—we go at it this way—we employ salesmen, we will say, in New York. Altogether we employ 29 salesmen who work on a guaranteed drawing account against commission.

The CHAIRMAN. Well, that is the salesman's commission?

Mr. CULVER. That is right.

The CHAIRMAN. How do you operate with the Quaker State?

Mr. CULVER. We purchase direct. In other words, they send it to us at their price, and it is not a consigned or any such arrangement.

The CHAIRMAN. Do you have a margin?

Mr. CULVER. I don't quite understand.

The CHAIRMAN. Do you have a margin fixed by contract?

Mr. CULVER. That is right; yes, sir.

Representative WILLIAMS. Let me see that I understand that. Margin between the price that you pay and the price——

Mr. CULVER (interposing). We wholesale it at.

Representative WILLIAMS. Well, that is fixed, then, by the Quaker State?

Mr. CULVER. That is correct.

Representative WILLIAMS. Who fixed the retail price of it?

Mr. CULVER. They have a published price which I have here. That is published and the only difference in the price anywhere in the United States would be freight rates.

Representative WILLIAMS. Well, they fix it, then, the Quaker Co. fixes the wholesale price or the jobber's price? Your price to the retailer?

Mr. CULVER. That is correct, sir.

Representative WILLIAMS. And the retailers' price to the consumer?

Mr. CULVER. They suggest that price, and we have never gone away from it.

Representative WILLIAMS. Well, I say there are three stages in the price procedure that are all fixed by them?

Mr. CULVER. That is correct.

Mr. O'CONNELL. You say they suggest the price in your contract with the Quaker State oil. Is the resale price contained——

Mr. CULVER. No; these are printed up for the different dealers, and that is the suggested price.

Mr. O'CONNELL. But it has no sanction of contract; I mean by that a retailer could sell at another price than the first price?

Mr. CULVER. We ask our retailers to sell for 35 cents a quart, and in our national advertising it is mentioned the same, 35 cents per quart in all of our national advertising. That is the Quaker State national advertising.

The CHAIRMAN. When you said that yours was a superior oil, and that it was more costly than the others, were you referring to the cost to the consumer or the cost to the retailer?

Mr. CULVER. I should refer to the cost to the manufacturer.

The CHAIRMAN. Well, what about the cost to the retailer?

Mr. CULVER. His margin of profit on the 35-cent retail price is possibly greater than the oil he is selling of a major oil company.

The CHAIRMAN. So that the retailer would make more profit on the Quaker State.

Mr. CULVER. That is right.

The CHAIRMAN. Than he would on the competing product which he is required to take under these devices which the other witnesses have described?

Mr. CULVER. Yes, sir.

Mr. SNYDER. Mr. Culver, in metropolitan New York and in 21 counties in New Jersey, in which you distribute Quaker State oils, does any major oil company distribute there for you?

Mr. CULVER. No, sir.

Mr. SNYDER. Now, in regard to the chairman's questions as to how you go about contacting prospective customers, suppose your representative approaches the manager of a split service station, selling three brands of gasoline; he has never sold Quaker State oil before. Do you offer him a contract to distribute Quaker State?

Mr. CULVER. No, sir.

Mr. SNYDER. None at all?

Mr. CULVER. No sir; we do not.

Mr. SNYDER. Do you have any contract distributors?

Mr. CULVER. No, sir; we have no distributors.

Mr. SNYDER. It is a pure sale transaction, paid for at the time he buys it?

Mr. CULVER. That depends naturally on his credit.

Mr. SNYDER. On his credit? Do you have any dealers who distribute Quaker State motor oils on consignment?

Mr. CULVER. No, sir; we distribute it all ourselves.

Mr. SNYDER. I raise the question for I thought from your early testimony that there might have been a possibility here that you

were by inference informing the committee that this leasing of the stations brought about a breach of contract between your company and your distributor, but apparently that isn't true?

Mr. CULVER. No; we have no distributor. There is one thing I may add to that, when you say a divided station. In metropolitan New York and in our New Jersey territory I honestly couldn't tell you one divided station. I don't know of one.

Mr. SNYDER. The split station has gone out there in that area?

Mr. CULVER. Absolutely in that area there is no split station.

Representative WILLIAMS. Right there, while you are on that, that term has been used here a good deal. I am not sure that it is always used in the same manner. What do you mean by a split station?

Mr. CULVER. A split station is where a dealer will have one pump for Standard oil and one of Tydol.

Representative WILLIAMS. That refers to gasoline only?

Mr. CULVER. That is correct.

Representative WILLIAMS. It doesn't necessarily mean that a unified station, I will call it, means a station which sells the gasoline and the lubricant products of the same company?

Mr. CULVER. They usually—they would sell the oil of both companies where they are a split station. They have what they call a minimum contract.

Representative WILLIAMS. Well, when we are talking about the integrated companies, the major companies requiring the handling of their product exclusively; now are we talking about simply their gasoline product, or their gasoline and lubricants both?

Mr. CULVER. We are talking about both their lubricating oils.

Representative WILLIAMS. Both?

Mr. CULVER. Yes, sir.

Representative WILLIAMS. In other words, with them a station must handle their products?

Mr. CULVER. That is right.

Representative WILLIAMS. Gas and lubricants exclusively.

Mr. CULVER. Up until a few years ago there was any number of divided stations. Well, those stations were very easy for us to sell and when one of the major oil companies took them over why it was impossible then for us to sell those stations.

Representative WILLIAMS. What I am trying to get at is this: We have one station selling gas—one brand of gasoline exclusively?

Mr. CULVER. Yes, sir.

Representative WILLIAMS. And selling the Quaker State lubricants, for instance; selling, we will say, the Sun gasoline and your lubricant. Now is that a divided station?

Mr. CULVER. No; that isn't a divided station where they are selling one gasoline and our lubricant.

Representative WILLIAMS. It isn't?

Mr. CULVER. No; we wouldn't call that a divided station.

Representative WILLIAMS. As long as they are selling exclusively one gasoline, that is not a divided station?

Mr. CULVER. That is correct.

Representative WILLIAMS. So that the dividing point is on the question of gasoline?

Mr. CULVER. That is correct.

Representative WILLIAMS. And not on the question of lubricants?

Mr. CULVER. Where the station is not divided it is impossible for that man to do business unless he handles the major oil companies' oil. He might handle our oil, but he has to handle their oil.

Representative WILLIAMS. Well, now it seems to me like that, to my mind, befuddles it again. He may handle two brands of lubricants?

Mr. CULVER. That is right.

Representative WILLIAMS. And one brand of gasoline?

Mr. CULVER. That is correct.

Representative WILLIAMS. And still not be a split station?

Mr. CULVER. That is correct.

Mr. SNYDER. Mr. Culver, is it fair to say that a unit of sale by the major oil companies to a service station operator includes both gasoline and motor oils of that company?

Mr. CULVER. Yes, sir.

Mr. SNYDER. Now, do you have any customers that handle only one major brand of gasoline and one major brand of lubricants and sells Quaker State?

Mr. CULVER. Yes; we have any number of them.

Mr. SNYDER. Are they contracted stations?

Mr. CULVER. They are contracted stations with no courtesy sign or courtesy-card privileges.

Mr. SNYDER. Are they lessee stations?

Mr. CULVER. No; they are not.

Mr. SNYDER. They are independent businessmen who own their property and decided to sell major-company gasoline and motor oils, and your motor oils, too?

Mr. CULVER. They have to have a contract in order to sell it.

The CHAIRMAN. Are there any other questions? Mr. Culver, we are very much indebted to you; unless you have something else to say you will be excused.

Mr. CULVER. Thank you.

The CHAIRMAN. The statement will be made part of the record. Likewise the statement of Mr. Craft.[1]

(Mr. Culver's prepared statement was marked "Exhibit No. 1223" and appears in the appendix on p. 9176.)

The CHAIRMAN. The committee will recess until 2:15, when Mr. Scott will take the stand.

(Whereupon at 12 o'clock the committee recessed until 2:15 p. m.)

AFTERNOON SESSION

The hearing was resumed at 2:35 p. m. upon the expiration of the recess, Representative Williams presiding.

Acting Chairman WILLIAMS. The committee will come to order, please. I believe the next witness is Mr. Scott. Is he present?

Will you be sworn, Mr. Scott? Do you solemnly swear the testimony you are about to give in the matter now pending will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. SCOTT. I do.

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[1] Previously admitted and marked "Exhibit No. 1222."

TESTIMONY OF LESTER S. SCOTT, MANAGER, LOUGHBOROUGH OIL CO., WASHINGTON, D. C.

Acting Chairman WILLIAMS. Be seated, and give your name, position, background, and experience to the committee.

Mr. SCOTT. My name is Lester S. Scott. I have been engaged in the marketing of petroleum products here in the District of Columbia for the past 17 years. I am still engaged in the petroleum industry, and I have prepared a statement for the committee which outlines quite fully my experience and my opinion with regard to the marketing situation so far as it affects the independent marketer here in the District of Columbia and nearby Maryland and Virginia.

ABSORPTION OF RETAIL OUTLETS BY MAJOR OIL COMPANIES DISCLOSED BY MARKETING SURVEY

Mr. SCOTT. I don't know that there is much that I can add to the over-all picture, but I have outlined in some detail some of the practices that have developed over a period of years as it affects the independent marketer. I have included with my statement a recent survey which was made by the Washington Post which gives the sale of gasoline by companies during the past 5 years. It also includes a break-down of the retail outlets and how they are controlled, and by whom they are operated. I think that survey probably gives about as clear a picture of the marketing situation here in the District as can be obtained.

I don't know what I can add to what I have included in the statement which I have tried to set forth just as fully as I can, from my own individual standpoint. I don't represent any group. I represent myself and the company I am associated with here, but I do feel that I fairly represent, and represent fairly, a large number of independent wholesalers and dealers throughout the country in the situation in which we find ourselves.

Acting Chairman WILLIAMS. What company are you connected with?

Mr. SCOTT. I am the manager of the Loughborough Oil Co. It is an independent, locally owned company.

We are engaged principally in the marketing of fuel oil for domestic consumption in homes and the marketing of lubricating oils and greases through independent dealers.

Acting Chairman WILLIAMS. Do you handle gasoline?

Mr. SCOTT. We do not handle gasoline at all. We did handle gasoline 7 or 8 years ago, but we found that it was impossible to continue in that operation on a profitable basis.

Acting Chairman WILLIAMS. Where do you get your supplies?

Mr. SCOTT. We get our supply of fuel oil from Baltimore. All of our fuel oil is shipped in by tank car from Baltimore terminals.

Acting Chairman WILLIAMS. I had more reference to the company with which you deal.

Mr. SCOTT. We deal with several companies. We buy a large amount of fuel oil from the Standard Oil Co. We buy some from the

Gulf Refining Co. We have bought some from Shell, and we have bought some from James B. Berry & Sons.

Acting Chairman WILLIAMS. What difficulties have you had in marketing enterprises and activities?

Mr. SCOTT. The main difficulty that we have experienced has been in the marketing of motor lubricants, motor oils, and the difficulty that we found is that our potential outlets for lubricating oils are being gradually dried up.

Acting Chairman WILLIAMS. What is your explanation for that?

Mr. SCOTT. Well, the explanation is that the desirable retail outlets are being gradually absorbed in one manner or another by the major operating companies, which excludes the marketing of the product that we are wholesaling, and that is very forcibly borne out by this survey made by the Washington Post.

Acting Chairman WILLIAMS. Does there seem to be any general plan adopted by those companies to get possession of these outlets?

Mr. SCOTT. I wouldn't say so. There seems to be devious ways that they use in obtaining control of a retail outlet. As far as I have been able to observe, they haven't any set plan for it, but they do, nevertheless, gradually get control of the desirable retail outlets.

Acting Chairman WILLIAMS. What are some of their methods?

Mr. SCOTT. They have one method that is very destructive so far as our wholesale business is concerned, and that is the lease and agency arrangement, whereby they will take a desirable retail outlet and enter into a lease arrangement with the owner or the lessee, whereby the owner or the lessee will agree to handle their products exclusively in return for some valuable consideration, either an additional margin of profit, improvement to the property, or in some cases in outright loans in cash.

Mr. O'CONNELL. Could you summarize for us very briefly the conclusions of that survey to which you just referred?

Mr. SCOTT. Yes; I think I have it summarized quite briefly in this statement, which I will be glad to read.

Mr. O'CONNELL. Where is it in your statement?

Mr. SCOTT. It is on the first page. I want to point out certain things shown in the survey of the Washington Post as follows.

Acting Chairman WILLIAMS. What you are reading from is your prepared statement, I take it, which has been submitted here and which is now being offered for the record.

Mr. SCOTT. That is right.

Acting Chairman WILLIAMS. It may be accepted for the record.

(The statement referred to was marked "Exhibit No. 1224," and is included in the appendix on p. 9180.)

Mr. SCOTT. Do you wish me to read this?

Acting Chairman WILLIAMS. I think not.

Mr. SCOTT. I have prepared a summary of the Washington survey in the statement in which I point out the number of retail outlets that are available to an independent marketer like ourselves, the number of retail outlets that are controlled by the major companies, which gives the picture, so far as the independent marketer is concerned, here in the District of Columbia.

Mr. O'CONNELL. That indicates the situation as it exists today. Have you any other material which would indicate what the trend is, as to whether there are more or less today than there were?

Mr. Scott. I would say that based on this survey made in December of the past year by the Washington Post the trend is toward a more definite control of the remaining retail outlets, because some of the retail outlets that were open as of Dcember have since been closed.

So that the situation is worse today than it was in December so far as the independent marketer is concerned.

Mr. O'Connell. You don't know whether it was worse in December of '38 than it was in December 2 or 3 years previous to that?

Mr. Scott. Much worse as of December 1938. I mean there has been a gradual process of elimination.

Mr. O'Connell. I understand that; that is a conclusion, though, and I wondered if there is no statistical survey which would give us a comparison.

Mr. Scott. I pointed out in the statement that there is no previous survey made previous to 1938 which would give such a comparison; if such a survey were available I am sure it would be rather startling in its comparison.

Mr. Shaughnessy. Mr. Scott, you say there is no previous survey. At the time when you were chairman of the code committee, back in 1934 and '35, there were more independent stations, to your knowledge, than there are reflected in this survey?

Mr. Scott. A great many more; yes, sir.

Mr. Shaughnessy. A great many more. That was because of your knowledge, because of your experience with the industry at that time?

Mr. Scott. Yes.

Mr. Shaughnessy. Now, the price of gasoline in Washington has been pretty stable, hasn't it? We haven't had any price wars here of any consequence in the last few years?

Mr. Scott. Well, so far as I know. I haven't been in close touch with the gasoline market for the past 7 or 8 years because I haven't been selling gasoline. I just know in a very general way, and so far as I know there hasn't been any serious price situation. There has been during the past year or so, I believe, quite a good deal of price cutting on third-grade gasoline. I think the branded products have been fairly well maintained.

Mr. Shaughnessy. Do you know anything about the possibility of increase in service-station discounts under "canopy," secret rebates?

Mr. Scott. Just from talking to men who are in the retailing of gasoline; they do complain a good deal of "under canopy" discounts and I get that information through our contacts with the retail dealers to whom we sell lubricating oils. They do complain of that quite bitterly, on "under canopy" discounts.

Mr. Shaughnessy. You sell lubes to local dealers?

Mr. Scott. We do; yes.

Mr. Shaughnessy. In considerable quantity? Are those branded; yours are unbranded?

Mr. Scott. We sell only branded lubricating oils and in a fair quantity. However, we have experienced the difficulty of being able to maintain our volume of business by reason of the diminishing retail outlets for the product.

Mr. Shaughnessy. Are those lubes branded by the major companies or are they Quaker State, Kendall, or——

Mr. SCOTT. Well, we handle the branded product of the Quaker State Oil Refining Co., exclusively.

Mr. SHAUGHNESSY. I wonder if you are sufficiently familiar with the retail market to tell me whether the so-called Iowa plan of leasing out service stations here has had any substantial effect on the dealers' margin?

Mr. SCOTT. Well, I don't know as I quite understand your question.

Mr. SHAUGHNESSY. Well, we have been told through these hearings that major companies have leased out their service stations to dealers; that the old practice of company-owned stations or strict-lease agencies, as we formerly understood it, have been eliminated, and that today major companies normally lease the service-station property to the independent operator, who in substance fixes his own margin, but there is no real retail price of the major company in the way that there used to be.

Do you know if that situation is the case?

Mr. SCOTT. Well, it is my opinion that the leasing by the major companies of their stations to independent operators has had the effect of upsetting the market to some extent so far as price is concerned, because there seems to be quite a varied method of operating. Probably in many cases the dealer in his effort to try to make a living out a station has given "under canopy" discounts in order to build up a volume. I have talked to a number of dealers who are operating such stations and that seems to be their theory.

Mr. SHAUGHNESSY. That still doesn't quite answer my question. You say there are a number of dealers. Would you be of the opinion that that is the widespread practice? What I am thinking of is this: Normally, at least, a lower retail price would eventually cut the dealer's margin substantially. We haven't had that situation here. We haven't seen a clear-cut reduction in the dealer's margin, and without knowing what exact volume, how substantial the amount of secret cutting is, we wouldn't know just how adversely the independent operator was affected by the Iowa plan. You wouldn't have any exact information as to the exact volume of the secret rebates, how many stations are indulging in it?

Mr. SCOTT. No; I wouldn't be able to answer that question because I don't come in close enough contact with the gasoline end of the business.

Mr. CHANTLAND. Do you refer to the summary on page 10? [1]

Mr. SCOTT. Yes.

Mr. CHANTLAND. Showing that the independents have 226 pumps out of 2,854 in the District. Is that right?

Mr. SCOTT. Two hundred and twenty-six.

Mr. CHANTLAND. Pumps, out of 2,854 total for the District?

Mr. SCOTT. That is what the survey shows; yes.

Mr. CHANTLAND. And of these, being in 70 stations, of them 43 were split, were they?

Mr. SCOTT. That's right.

Mr. CHANTLAND. Meaning what—"split" stations?

Mr. SCOTT. That means where they handle the product of more than one major company.

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[1] Appendix, p. 9184 et seq.

Mr. O'CONNELL. Can you tell us anything about the volume of sales of lubricating oils of your company? You have indicated there has been a trend in the way of reduction of the independent outlets through which you could sell or market your products. What has been the volume of your sales, in trends and profits?

Mr. SCOTT. Well, our volume of sales this year is about 10 percent less than they were last year and in 1938 they were about 15 percent less than they were in '37, and in my opinion that reduction has been due almost solely to the reduction in the number of potential outlets for our products.

Mr. SHAUGHNESSY. One more question, Mr. Scott: Do you know whether the amount of gasoline coming into the District from non-major-company sources has decreased in recent years? I know we used to have a fair amount of Snappy. Is that a major-company supply?

Mr. SCOTT. No; that is an independent operated.

Mr. SHAUGHNESSY. And General—is that a major company?

Mr. SCOTT. General is, so far as I know, an independent company. I have never been able to follow their original source, but they apparently operate as an independent company.

Mr. SHAUGHNESSY. Spur is an independent company too, isn't it?

Mr. SCOTT. I understand that Spur is independently operated.

Mr. SHAUGHNESSY. I was just thinking that there doesn't seem to be any decrease in this table for those companies. I was wondering if you could explain that—I mean, no decrease in the amount of gallonage sold per year.

Mr. SCOTT. Well, I can't explain it except that there has been a fairly steady increase in the total volume of business, over-all business.

Mr. SHAUGHNESSY. Do you know whether, as a matter of fact, they openly sell under the market? They sell third-grade gasoline.

Mr. SCOTT. They all, or at least most of them, sell at less than the branded.

Mr. SHAUGHNESSY. So then there was what we might call a toleration in price differential here in the District, in their not cutting the major gasoline price down to the price of the independents.

Mr. SCOTT. I think in a number of cases the major company leased stations have met the price of these independent third-grade operators; at least the signs displayed at the station would indicate it.

Mr. SHAUGHNESSY. Wouldn't you say that was the case of an independent distributor distributing major-company gas, meeting an independent distributing independent gasoline?

Mr. SCOTT. I don't think it would be restricted to one.

Mr. SHAUGHNESSY. But it is done.

Mr. SCOTT. It is done in certain stations.

Mr. SHAUGHNESSY. Nevertheless the independents have been able to maintain their gallonage.

Mr. SCOTT. I don't know whether they have been able to maintain their gallons.

Mr. SHAUGHNESSY. These figures indicate it.

Mr. SCOTT. I think where they have met the third-grade independent's price it has been where they have been in close competitive proximity to that particular third-grade operator. I don't think it has been general at all.

Mr. SHAUGHNESSY. There have been no changes in policy with respect to that as far as you know?

Mr. SCOTT. As far as I know there haven't been.

Acting Chairman WILLIAMS. Are there any further questions?

We are indebted to you, Mr. Scott, for your appearance here and your presentation. Your statement will be filed for the record.

Mr. CHANTLAND. I might ask one question before he leaves the stand. You said you quit the gasoline business some years ago because you found it unprofitable. Do you care to say why the unprofitableness came about, if you know?

Mr. SCOTT. We found in our distribution of gasoline that the margin of profit from the wholesale standpoint was so small that it hardly justified the hazard and investment that it was necessary to put into the business to carry it on. We were distributors for the branded major products and the major company decided to come in and handle the distribution themselves and they wiped us out, so we decided not to continue on.

Mr. CHANTLAND. So you are one of the wiped out, are you?

Mr. SCOTT. We were wiped out of the gasoline business.

Acting Chairman WILLIAMS. That is all, thank you.

Mr. SCOTT. Thank you, sir.

(The witness, Mr. Scott, was excused.)

Acting Chairman WILLIAMS. Mr. Ruark.

Do you solemnly swear that the evidence you are about to give in this matter that is now pending shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. RUARK. I do.

TESTIMONY OF B. W. RUARK, GENERAL MANAGER, MOTOR AND EQUIPMENT WHOLESALERS' ASSOCIATION, CHICAGO, ILL.

Acting Chairman WILLIAMS. Be seated. Give your name, your experience, and connections to the committee.

Mr. RUARK. My name is B. W. Ruark. I am general manager of the Motor and Equipment Wholesalers' Association, located in Chicago. I have been connected with the automotive supply business since 1918, first with a manufacturer in the sales department, then as sales manager of a wholesale concern, and I went into the trade organization work in 1922. Since 1932 I have been the general manager of the Motor and Equipment Wholesalers' Association.

Acting Chairman WILLIAMS. You have prepared a statement, have you, and submitted it here?

Mr. RUARK. Yes, sir.

Acting Chairman WILIAMS. Do you now desire to offer that for the record?

Mr. RUARK. I do.

Acting Chairman WILLIAMS. It may be accepted for the record.

(Mr. Ruark's prepared statement was marked "Exhibit No. 1225" and is included in the appendix on p. 9196.)

Acting Chairman WILLIAMS. Now you may proceed and summarize your statement in a way that you think best.

Mr. RUARK. Thank you, sir.

The first part of my statement gives information concerning the

type of organization that I represent, and in view of the fact that there seems to be sometimes a misconception of the importance of the wholesaler, I would like to point out just the function that he performs and the importance of that function to the hundreds of thousands of retailers, on the one hand, and to the thousands of manufacturers, on the other hand. In brief, we who represent the wholesaler regard him as a bridge that connects these two. I think experience has demonstrated that hardly any but the largest producers are able to maintain their own distribution outlets and contact directly with the large number of retailers throughout the country, and so the wholesaler performs that distribution function for him, and, as a matter of fact, makes it possible for many to remain in business. On the other hand, they perform many valuable services to the retailer, and it is a fact that the great majority of retailers would not be able to continue to operate if it were not for these essential services of the wholesaler. Consequently, anything that tends to impair the ability of the wholesaler in the automotive business to carry on goes far beyond the effect upon the wholesaler himself and affects these two great trade divisions. I thought it would be well to refresh our minds upon that point.

We refer to our people, or, rather, the people whom we represent——

Acting Chairman WILLIAMS (interposing). You represent the Motor and Equipment Wholesalers' Association. Just briefly, what is that association?

Mr. RUARK. It is a national association of supply houses furnishing to retailers such items as accessories, replacement parts, and garage and service-station equipment.

Acting Chairman WILLIAMS. How many members are in your association?

Mr. RUARK. We have approximately 350 members in our association.

Acting Chairman WILLIAMS. And they are scattered all over the country, are they?

Mr. RUARK. All over the United States.

Acting Chairman WILLIAMS. In all the States?

Mr. RUARK. In 46 of the States and the District of Columbia; practically all.

Acting Chairman WILLIAMS. They are the dealers in the motor equipment, the equipment that is furnished to the various retailers throughout the country?

Mr. RUARK. Yes, sir.

Acting Chairman WILLIAMS. Filling stations?

Mr. RUARK. Filling stations, garages, car dealers, specialized shops, such as brake-service shops, battery stations, etc.

Acting Chairman WILLIAMS. Members of your association furnish to those retailers their supplies?

Mr. RUARK. Yes, sir. Of course, there are others supplying them, too.

Acting Chairman WILLIAMS. I understand; but that is the function of your organization, your association?

Mr. RUARK. Yes, sir; that is it; and those 350 members maintain in addition to their main establishments what we call branch stores; and the total number of outlets represented by them is around 2,200 wholesale outlets throughout the country.

Acting Chairman WILLIAMS. Is there any common source of supplies for these various members of your association? Where do they get their supplies?

Mr. RUARK. They get their supplies from the manufacturers who produce also for the car makers and who also supply the major oil companies; such concerns, for example, as National Carbon Co., antifreeze; Champion and A–C Spark Plug Cos.; Raybestos, Thermoid, and other brake-lining companies; and I should say, roughly, about 250 companies are supplying supplies to our people.

We point out in our statement that there is no basis for authoritative data as to the percentage of business done by the members; that is, percentage of total volume. We also point out that they are in competition with some or all of the major oil companies, and in such competition they are confronted with principally two problems. One has to do with the distribution of merchandise for resale by the stations and the other has to do with the distribution of service-station equipment that is used by these stations; and both of them, according to widespread experience of members and information supplied the association by those members, are used to restrict purchases to outlets designated by some or all of the major oil companies; and the device through which this is done is some form or other of the lease and agency station.

USE OF SERVICE-STATION EQUIPMENT AS A DEVICE FOR OBTAINING EXCLUSIVE CONTROL OF MARKETING OUTLET

Mr. RUARK. We have prepared in addition to the brief a three or four page statement that we have here, sir; also a summary of replies that we received to a questionnaire that we sent out the early part of this year to members after we had been told that this opportunity to present the case of our members to the committee would be provided.[1]

I don't know that it is particularly necessary for me to go into detail in repetition of the statements that we have made in this statement, but the general condition, sir, as reported to us—and it can be verified by the experiences of members very generally—is that through the device of the lease and agency agreement or arrangement, after the brand of gasoline and motor oil that is covered in that has already been put in the station and the station has become identified, then that is held over the heads of the operators of those stations as a means of dictating to them that they shall buy this or that merchandise either from the major oil company or the major oil company's designated outlet, and in doing that tells them from whom they may not buy.

Some of the types of products that are involved in this type of operation are spark plugs, for example, and principally the volume items, such as spark plugs, batteries; antifreeze has come into the situation. Just a little while ago I received quite a number of reports from the Kansas City area, in which our members stated to us that they had cancelations for antifreeze for the coming season—it is customary to place these orders in advance—from persons who had placed orders, and the reason given was that the major oil company, whose petroleum products they handled, had informed them that they

[1] Included in "Exhibit No. 1225."

must cancel those orders; and in the brief that I have filed, or the tabulation of returns to this questionnaire that I would like to call to your attention in a moment or two in high-spot fashion, we give a large number of instances of that type.

In the sale and handling of garage equipment, the major oil companies in recent years have become very active. We have reported to us any number of instances in which a member of our association will contact a party, work with him in getting his place ready, or otherwise work with him in determining the equipment that he needs, and then very frequently—it is becoming a very general practice, very much more so than it has been at some times in the past—a representative of the major oil company steps into the picture and in effect he says, "Now, there is no use for you investing your money in this equipment. We will supply it to you either at our cost or we will supply it to you on almost any basis that is necessary to have you tie in with us in the handling of our petroleum products." Sometimes that is on a cost basis, sometimes it is on a basis less than cost, sometimes it is on a 5-year lease basis or a lease basis of some other duration, and in that manner it is used to control or tie up the petroleum product there. In other words, the evidence shows that equipment is being used as a football and on a nonprofit basis to the oil company handling it for the purpose of controlling the sale or purchase of petroleum products, and consequently at the same time giving them practically the same effect as a standard lease and agency agreement.

Those are the two points that we have covered in our statement, and on page 2 of the statement [1] we set forth a copy of a letter that was sent by a representative of an oil company in Ohio in which he tells them very frankly that they will not be permitted to handle products other than that specified or dictated by the major oil company.

I think, sir, we have covered the particular points in our statement except toward the last of it we set forth our ideas as to some remedies that might be taken by this committee. I would like to withhold comment on that part and refer rather briefly to the tabulation which starts on page 5.

Excuse me for taking time on this to repeat something, but this is a national picture. It comes from practically every State in the Union and represents experiences of members in this problem of meeting the competition of major oil companies.

First, the bulletin was sent to approximately 360 persons; 142 replies were received, about 40 percent, and in trade association work that is a very high response.

Our first question was:

> Have a large number of the filling stations in your area which were formerly operated by major oil companies been turned over to the former "managers" and now claim to be "independent owned stations"?

One hundred twenty-nine report "Yes"; 3 report "Not many."

Under each of those we have indicated some representative opinions or representative statements.

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[1] Appendix, p. 9196.

Question (2):

Concerning these former "company owned" and now "independent" stations, do they now act as though they were truly independent and free to purchase whatever brands of merchandise they please?

One hundred ten report "No"; 20 report "To a very limited degree," and 2 report "Except for tires and batteries."

The next:

Or, as far as you can see and judge, is there the same and as actual a control of purchases, brands handled and policies of operation as existed before they changed to so-called "independent" stations?

One hundred eighteen report, "Yes," that is practically the same degree of control as before the change; six report, "No," and six report, "Very little change."

(Senator O'Mahoney assumed the Chair.)

The CHAIRMAN. Were these "Yes" reports received from persons telling of their own experience or telling of the experience of others?

Mr. RUARK. My understanding is they were telling of their own experience that they had met up with in their job of operating a business.

The CHAIRMAN. What I mean is this: How many of the 118 were themselves lessees then when they answered?

Mr. RUARK. These were not lessees, Senator. These are members of our association who are attempting to do business with the lessees.

The CHAIRMAN. I see. So these are wholesalers dealing with retail outlets and were reporting in response to this inquiry their observations.

Mr. RUARK. That is right. The type of wholesalers (if I may say, two right in your own home town) are fairly representive of the entire membership of our association.

Where one of these "now independent" stations carries the petroleum products and/or the accessories of supplies marketed by one of the major oil companies: (*a*) Are you able to sell them any of your petroleum merchandise?

Eighty-eight report that they are not; one reports "Yes," and twenty report "Occasionally."

There is one comment that I have checked under this heading in which one reports, "Very little; they are afraid to display and normally merchandise it." In other words, it seems to be quite the practice that where the members of this association are able to get their products of certain types into these stations, the operators are not permitted to openly display it, or, as the common saying in the trade is, they have to bootleg it. The record also shows statements of members to the effect that when this situation exists and when lessees have been, to use the expression, caught bootlegging merchandise bought outside of the designated sources, it has been returned to jobbers and credit claimed.

Under-question 3 (*b*):

If you can sell them, do they publicly display and advertise it or do they market it on a bootleg basis, keep it out of sight until and unless called for by a customer?

We have already answered that. The summary is given on the top of page 9: 74 report "Bootleg basis, keeping it out of sight until called for." Four report that it is properly displayed.

We asked a third division of that question 3 (*c*):

Are you able to sell them supply and accessory items which compete with the major oil company private branded products such as tires, batteries, etc.?

Ninety-six report "No," that is, they are not able to sell those products, and twenty-three report "Occasionally."

Section (*d*) under that question:

If unable to sell any of these products, what is the usual reason given as to why they will not buy your brands of merchandise?

We didn't attempt to catalog the reasons, that is we didn't attempt to compile them in a statistical form, but there we give a large number of responses, and one on there is right interesting, it is about the third of the page:

Will affect bonuses or bonus not allowed if found in station, or station will be rented to a party who will do as told.

Question 4 on page 11:

Have you or your salesmen ever been told by these independents that their lease or connection with this major oil and gasoline supplier—

That should be "his"—

with his major oil and gasoline supplier would be put in jeopardy if they purchased and/or displayed other and competing products?

Ninety-two report "Yes," 12 report "No," and 17 report "Intimated but not actually told by the operator."

And then we give 2 or 3 instances under that which brings the point right down to actual cases. Question 5:

Have such statements immediately referred to been occasional or frequent?

Seventy-five report "Frequently," 22 report "Occasionally."

Under question 6:

Does your business experience and personal observation lead you to feel that these stations are just about as rigidly controlled by their major oil company suppliers now as they were before they became independent?

That in a way is a duplication of question No. 1, so we didn't make any statistical tabulation. We gave two or three of the typical responses.

Question 7:

What is your experience in competition with major oil companies in the sale of equipment?

And under that, gentlemen, we give a number of instances based on the method of what we referred to as "footballing" equipment in order to control the purchase and sale of petroleum products.

Page 13 and 14 give those comments and page 15 continues the comments. Now if you will please note paragraph 2 under section 8 on page 15:

Since the above-outlined condition must be corrected nationally, it would be a further detriment to become involved locally.

I might explain that that is one of the reasons why the association has acted for its members in this matter, and at the same time to provide a national picture based on the experience of operators over the country at large.

The CHAIRMAN. Where is that statement?

Mr. RUARK. That is the second paragraph under section 8 on page 15. Then in the fifth paragraph is a statement that might be worth while to particularly point out.

They operate as "leased" stations but actually every operation is controlled and dealer reports are required with every transaction, the same as before they were leased to operators. Certainly requires some attention from Government as leases are nothing except method of avoiding Social Security tax and chain-store tax. Oil companies resort to minor excuses to break leases if other lines are handled. Excuse of dirty rest room or most any other violation of their many rules and requirements. Believe most any station operator will reveal necessary facts if questioned in proper manner with assurance his name will not be revealed.

Now at the bottom of page 16 and at the top of page 17 is a summary of replies to the question:

Will you name the major oil companies involved in your experience upon which replies to this questionnaire are based?

Keeping in mind again that there were 142 replies to this questionnaire, this gives information according to the experiences of members, the oil companies with whom they are in competition in this matter. Now I believe that is about all.

The CHAIRMAN. What do you mean by the very first one, "Standard"? Which Standard and how many?

Mr. RUARK. Well, that wasn't broken down because the members of our trade regard that——

The CHAIRMAN (interposing). Well, on page 17 we find "Esso."

Mr. RUARK. Yes.

The CHAIRMAN. So apparently there is some distinction?

Mr. RUARK. There must be. I don't know just what they had in mind when they made that distinction there.

The CHAIRMAN. Well, this questionnaire was directed to retailers or was directed to your members?

Mr. RUARK. Wholesalers.

The CHAIRMAN. Wholesalers, with respect to retail stations which had formerly been operated by the majors and were now being operated by lessees?

Mr. RUARK. Yes. With respect to their experiences and the effort to sell those stations.

The CHAIRMAN. Yes; so that this whole statement when boiled down amounts to this, that the lessee operated stations of the majors, with respect to this matter of selling departments, acted about the way they acted before the leases were made?

Mr. RUARK. Yes, the same as when they were company owned and operated. That is the purport of it; yes, sir.

The CHAIRMAN. Now then, what is your experience with respect to stations which are neither owned and operated by the majors nor leased by the majors?

Mr. RUARK. You mean the truly independent stations?

The CHAIRMAN. Yes.

Mr. RUARK. The experience of our members is that they have little difficulty in doing business with them.

The CHAIRMAN. You mean you can do business with them?

Mr. RUARK. Yes; with the truly independent station.

The CHAIRMAN. All right. Now, how many of those stations proportionately are there now as compared with, say, 2 or 3 years ago?

Mr. RUARK. Well, our information is that they are less and less all the time. I don't have the percentages on that.

The CHAIRMAN. Have you made any effort to get such percentages?

Mr. RUARK. Well, under or during the N. R. A. we went into that quite fully and we developed some information along that. The trend then was very definite toward a lessening of the number of the truly independent stations. There is somewhere in here some information. I don't recall just where, that gives a small section there and shows the percentage of independents in some restricted area.

The CHAIRMAN. You mean in your statement?

Mr. RUARK. Yes; as indicated generally.

The CHAIRMAN. What is your own personal opinion, based on your experience?

Mr. RUARK. Well, our personal opinion is that the truly—the truly independent stations are rapidly going out of business.

The CHAIRMAN. Does that mean, then, that the majors are acquiring a larger percentage of the retail operators' outlet?

Mr. RUARK. That is right.

The CHAIRMAN. And is it your opinion that there is a steady trend in that direction?

Mr. RUARK. That is true; yes, sir.

The CHAIRMAN. What recommendation do you make?

Mr. RUARK. Well, sir, I don't know that I can add anything to a number of things that have been said. I am not an expert in this particular phase of things, but I did happen to be chairman of the operating committee representing seven wholesale associations in connection with the wholesale automotive code during the N R. A. and we came in contact there very frequently with the principle of prohibiting the conditioning of the purchase and/or sale, of any one product on a purchase and/or sale of any other product.

Just how far that principle can practically be applied I don't know, but we think there is a basis there for legislation if present legislation doesn't exist in proper form whereby a remedy might be found for this situation.

Then another thing that has gone through our minds on this is the old, or the oft-mentioned subject of divorcement. We have, I believe, precedent for that in the packers' consent decree. It is our thinking on the subject that if it is against public policy, and it has been determined to be, for the meat packers to control the meat industry from the animal on the hoof until it goes to the consumer's table, because that represents such an aggregation of economic power, that it is likewise against public policy for the petroleum industry to be controlled from the crude to the time it goes in the tank of the car If our information is correct, there is further precedent for that type of remedy in the divorcement of the coal companies from the ownership by railroads. Then in several of the States, I think North Dakota is one, divorcement of the ownership of theaters from the ownership and control of the producer.

We don't say that that is any panacea for it, but that is one remedy that we think can very well be given consideration.

Mr. AVILDSEN. Mr. Witness, before you go on to the next subject, it is not clear to me just why you feel the oil companies are different from the packing companies today. I understand the packing com-

panies deliver meat to the retail meat market just the way the oil companies now deliver oil to the retail service station.

Mr. RUARK. They do in that respect. Of course, the principle of divorcement, I think, would have to be applied in a different way.

Mr. AVILDSEN. Isn't the oil industry divorced from marketing just as much as the meat-packing industry?

Mr. RUARK. I understand it is not.

Mr. AVILDSEN. What is the difference?

Mr. RUARK. Because in some cases they have their company-owned stations and the difference is that they have as complete control over their leased stations as they had formerly, so in reality they control the proposition clear through.

Mr. AVILDSEN. You mean, then, that they should not be allowed to lease stations, is that it? I mean to say, the meat packers now have fleets of trucks and salesmen who go around selling meat to the retail meat markets, just the way the oil companies go around selling oil.

Mr. RUARK. Yes.

Mr. AVILDSEN. They may not lease meat markets to these retail merchants, but except for that difference it seems to me that there is no great difference between the way the meat packers do business and the way the oil companies do.

Mr. RUARK. They might not with respect to petroleum products, but when I am speaking about divorcement what I mean is this: The divorcement of the handling of merchandise other than their petroleum products, because I am concerned here, representing the people I do, primarily with the sale of automotive equipment and supplies as contrasted. If it is necessary to go that far, and divorce the handling of that type of product from the handling of the products on the part of the major oil companies, that is what we have in mind. Does that answer your question?

Mr. AVILDSEN. Yes; it does.

Mr. SNYDER. In the analogy you are making between the meat-packing and the petroleum industry, are you making a comparison between the automotive supplies in the filling station and canned goods which the packers formerly sold to the meat dealers? Is that the analogy you are making?

Mr. RUARK. I don't know just the detail of that, but in general I would say "yes," that is the analogy I am making.

Mr. SNYDER. Since the decree against the packers prohibited them from distributing canned goods, groceries in general, fruits, and all those products which were not directly packing-house products, I thought you were making the analogy between those products.

Mr. RUARK. If I had been a little more informed about the detail of that, I think probably I would have stated it that way, but the base point of this, gentlemen, is that our people must make a profit in the operation of their businesses or they go out. They don't have profits from other operations to sustain losses, and I believe there has been presented to the committee evidence as to the profits in pipe-line operations and various other operations, and that is what we have in mind. We believe that if independent business is to survive, there must be some protection from the use of profits from multiple operations to finance an operation at a loss which results in unfair competition to others engaged in that business.

The CHAIRMAN. What would the effect be upon the price paid by the consumer?

Mr. RUARK. Well, we think that there would be no—we believe that the consumer would obtain just as fair prices, because there are many wholesalers and they are in competition with one another, and we believe that competition there would protect the interest of the consumer.

The CHAIRMAN. The statement is made, when your suggestion is offered, that if this competition from the majors were eliminated, that is to say, if they were deprived of their outlets, the price to the consumer would almost immediately rise. Have you any opinion about that?

Mr. RUARK. Well, my opinion, Senator, is that that is not a statement of fact.

The CHAIRMAN. On what grounds?

Mr. RUARK. And my further opinion is that perhaps price to the consumer isn't the ultimate consideration if it means the death of independent business.

The CHAIRMAN. You think the public interest requires the support of independent free enterprise?

Mr. RUARK. I think so. I think that has been the theory of our whole national existence.

The CHAIRMAN. Well, then, would you go another step and express the opinion that integrated industry is not in the public interest?

Mr. RUARK. Well, that is very difficult of determination. My own opinion is that integration has been carried far too far for the public interest. Just where the law of diminishing returns sets in, and just how far we should integrate and how far we should not, I am not competent to express an opinion on that.

The CHAIRMAN. Of course, if any legislation were undertaken of that kind, it would be necessary for the legislators to draw the line somewhere.

Mr. RUARK. That is true.

The CHAIRMAN. And you don't offer any recommendation?

Mr. RUARK. I don't offer any recommendation there because the facilities for determining that are, or at least thus far have been, beyond our reach.

Mr. AVILDSEN. To get back to this divorcement business, do I understand that people like Goodyear Tire & Rubber are in the business of retailing gasoline and motor oils? I have seen a number of stations with their name on. Do they sell tires, gasoline, oil, and so forth?

Mr. RUARK. I believe Goodyear Tire & Rubber is. Firestone service stores are usually referred to as the typical example of that operation.

Mr. AVILDSEN. Do you feel that their oil business and gasoline business should be divorced from their tire business? You say the oil companies should go out of the tire business. Do you say the tire companies should go out of the oil business also?

Mr. RUARK. I am inclined to think so.

Mr. AVILDSEN. You are not sure?

Mr. RUARK. I am not sure, because you would have to study the conditions between particular operations.

Mr. AVILDSEN. What would be the difference between the two? If one is wrong, why isn't the other wrong?

Mr. RUARK. As I understand it, there might be a difference in the extent of the economic power of different ones, and the ability to use that power in unfair competition.

Mr. AVILDSEN. Do you know the history of the thing? Did the tire companies start out by selling oil or did the oil companies start out by selling tires?

Mr. RUARK. I don't know the history of that.

Mr. AVILDSEN. It seems to me that somebody, in order to protect his market, had to go into the same combination as his competitor.

Mr. RUARK. That might be, sir, but in our opinion, if this principle of competition, regardless of why these practices are developed, results in such tremendous integration and results in forcing the from-time-immemorial type of independent operator out of business in this country, regardless of why it came into being the problem ought to be met with if it is possible to find a remedy.

Mr. AVILDSEN. You say, on page 17 of your formal statement, "Texaco, Signal, and Rio Grande has discontinued merchandise control." Just what do you mean by "discontinuing merchandise control"?

Mr. RUARK. Well, that means—you see, this is based upon a report that was made to us, and that means that they no longer are dealing in or handling accessories.

Mr. AVILDSEN. By "merchandise" you means accessories?

Mr. RUARK. Yes; my whole statement here is based upon automotive parts, accessories, and garage equipment.

Mr. SHAUGHNESSY. Mr. Ruark, you don't intend this to be a 100 percent indictment of all the oil companies, then? There are some oil companies where equipment may be sold to service stations today. Isn't that true?

Mr. RUARK. Well, you know, it is pretty difficult to make a 100-percent indictment. We have tried to cover that situation in question 9.

Mr. SHAUGHNESSY. I was thinking of the fact that in Mr. Pew's testimony here, Mr. Cox asked him whether the Sun service stations were free to sell any kind of automobile accessories of any kind that they would like to sell, and Mr. Pew said that that statement was quite true. Mr. Cox then asked him:

> Have you ever received any complaints from people in the industry that representatives of your company have attempted to persuade, or in some cases have ordered the operators of filling stations to discontinue the goods of competitors?

Mr. Pew said:

> Yes; I have heard complaints of that kind. I never was quite able to understand just what their viewpoint was. It always seemed that if Mr. Chrysler were to appear before this committee and object to the fact that Ford dealers wouldn't put his cars in their exhibition rooms, therefore there was something wrong with the Ford dealer. At the same time we do not restrict our dealers from selling the products of other manufacturers of oil.

Mr. RUARK. Whose testimony was that?

Mr. SHAUGHNESSY. Mr. Pew, president of Sun.[1]

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[1] Mr. Pew's testimony appears in Hearings, Part 14.

Mr. RUARK. If you will bear with me just a minute I think I have something on that.

What I thought was on that point, dealing with that particular company, is another company. I don't know whether there is anything in the record here dealing particularly with Sun or not.

Mr. SHAUGHNESSY. On page 7 of your mimeographed statement you state that "the only independent stations in our territory that can buy where they please are Sun stations." Is that correct?

Mr. RUARK. That is on page 7?

Mr. SHAUGHNESSY. Yes; the fourth line.

Mr. RUARK. That might be true in a particular territory.

Mr. AVILDSEN. That would indicate that so far as Texaco and Sun Co. are concerned, they do not interfere with your dealers handling automotive accessories. Is that right?

Mr. RUARK. So far as I know, that would indicate that. Texas at one time had an arrangement where, instead of handling directly, they designated a certain supplier. Whether or not that is still in existence I don't know. It appears to be the pretty common practice, for example on the west coast, for certain of the oil companies, instead of maintaining their own distribution, to make a hook-up with certain wholesalers to supply these accessories, and other wholesalers complain that because of that they are unable to do business with these stations. Shell Oil Co. recently, according to our information, has entered into a contract with a number of wholesalers, resulting in the same statement of conditions.

Mr. SNYDER. Are there wholesalers members in your association?

Mr. RUARK. Some are; yes.

Mr. AVILDSEN. Do you know of any other major companies which follow the same general policy as Texas and Sun, namely, in not insisting on the dealers handling any particular line of auto accessories?

Mr. RUARK. No; I don't. It is a pretty general condition in the industry.

Mr. AVILDSEN. But you wouldn't say——

Mr. RUARK (interposing). It seems to be part and parcel of the lease and agency agreement.

Mr. AVILDSEN. But you wouldn't say they are necessarily the only ones not controlling merchandise.

Mr. RUARK. No; and I am not testifying that they are not. My information is inadequate on that.

Mr. AVILDSEN. But the information you submitted here indicates that they probably are not.

Mr. RUARK. They probably are not.

Mr. AVILDSEN. There are references in your reports here to indicate that they probably are not.

Mr. RUARK. I understand that some time ago there was a Federal Trade Commission proceeding against Texaco which resulted in their ceasing to directly handle this merchandise.

Mr. O'CONNELL. Well, Mr. Ruark, these statements of the characteristics of certain specific companies, as I would understand it, were quoted from the reports that you received from individual members

of your association, so that in reading any statement in here, particularly of the quoted provisions, it would merely tend to indicate that the condition would prevail in a particular territory from which your particular member was reporting.

Mr. RUARK. Yes.

Mr. O'CONNELL. It wouldn't necessarily indicate a general condition as regards any company, one way or the other.

Mr. RUARK. Except that we must keep in mind that this is a Nation-wide report, and we will find that in some territories experiences of members seem to run more to a particular company, and in other territories the experience will run to others, but the statement as a whole shows that on a national basis, lease and agency is used to control the stations to the same degree, or practically to the same degree, as they were before they were leased.

Mr. SNYDER. Mr. Ruark, isn't the volume of automotive equipment sold by these stations really small as compared with the total volume of petroleum products sold through all the stations?

Mr. RUARK. The volume of equipment—are you speaking about merchandise for resale?

Mr. SNYDER. Supplied to these stations by your members, for instance. Isn't that small as compared with the total volume of petroleum products?

Mr. RUARK. It might be small in terms of total dollars and cents, but in terms of importance to the filling station it is quite important.

Mr. SNYDER. Why do you think the integrated oil companies are so interested in this line of merchandise?

Mr. RUARK. Well, I think that is probably to be answered in a sort of double-barreled way. In the first place, the testimony that we have given to us shows that it is a method of controlling the purchase and sale of petroleum products, in which they are very much interested; and, in the second place, it was developed, I am quite sure, in the testimony during the N. R. A. that at least some major oil companies' executives testified that it cost them about 6 cents a gallon to market at retail gasoline, and it was also brought out, if I am correct in the record there, that the usual practice is to allow the operator about from 3 to 4 cents, and consequently he has got to have profit from some other source to be able to show a profitable operation, and that is where the importance of batteries and tires and spark plugs and lamp bulbs and antifreeze and merchandise of this type comes in. It has a sort of twofold significance.

Mr. O'CONNELL. That is the significance to the operator of the outlet. I understand Mr. Snyder's question referred to its importance to the oil company.

Mr. RUARK. Of course, we have no records on that. We are not competent to testify on that.

RECOMMENDATION OFFERED TO AID THE INDEPENDENT

Mr. RUARK. Another suggestion has come to us, gentlemen, that I submit. We were mentioning divorcement there. The problem to us seems to be the ability to divert profits from one operation to the financing of another operation on a basis that makes it impossible for independent operators to continue to do the service job that they are

called upon to do. Now, we don't want to take the position, or at least I personally don't want to take the position, that any citizen shouldn't have the right to engage in business. We believe that there might be something to the idea that major oil companies should be required to segregate their business, and possibly under the supervision of the S. E. C. be required to cease following a policy of merchandising certain types of equipment in competition with others at a loss. The Government is extremely interested in business making a profit, because business pays taxes on profits, and in some of the comments that were brought out in our statement, the opinion is expressed that the Government is losing a large revenue under Social Security taxes, for example, because there are many of these stations, when considered individually, that don't have the number of employees required to make them eligible for that tax.

The CHAIRMAN. Do you mean by this that Congress ought to pass a law to prevent anybody from doing business at a loss?

Mr. RUARK. No; I don't mean that. If you remember, Senator, I spoke about following a consistent policy. There is a distinction, I think—a consistent policy with the intent of accomplishing certain things, or with the effect.

So that is one solution that has come to us, and then, for reasons that you will immediately notice, I sort of hesitate, but we have been very much enamoured with the idea of a national charter.

The CHAIRMAN. That sounds reasonable.

Mr. RUARK. That would be the vehicle. Those, generally, are our thoughts on this. As I said in the beginning, we don't pose as experts on this particular phase of the matter.

The CHAIRMAN. Are there any other questions? Mr. Ruark, have you completed your statements?

Mr. RUARK. Yes, sir; as far as I am concerned, unless there are further questions.

The CHAIRMAN. The committee is very much indebted to you. You may be excused.

(The witness, Mr. Ruark, was excused.)

Mr. SNYDER. Before the next witness comes on, Mr. Chairman, Mr. John D. Gill submitted the material which the committee asked him for at the time he was testifying here. I have gone over this material and believe it will afford some explanation of the material which was in the charts which he did not have available at that time for explanation, and I offer it for the record.

The CHAIRMAN. Without objection, the material may be received, and will be printed in the appendix, in explanation of Mr. Gill's charts.

(The material referred to was marked "Exhibit No. 1226," and is included in Hearings, Part 14, appendix, p. 7676.)

The CHAIRMAN. The attention of the Chair has been called to the fact that when Mr. Ramsdell was on the stand a few days ago, and offered "Exhibit No. 1210," it was not formally ordered to be printed. Without objection it is now ordered to be printed.

("Exhibit No. 1210" is printed separately as Hearings, Part 15–A.)

The CHAIRMAN. Who is the next witness?

Mr. SNYDER. Mr. Crouthamel.

TESTIMONY OF HENRY A. CROUTHAMEL, EXECUTIVE SECRETARY, MARYLAND ASSOCIATION OF PETROLEUM RETAILERS, INC., BALTIMORE, MD.

The CHAIRMAN. Do you solemnly swear that the testimony you are about to give in this proceeding shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. CROUTHAMEL. I do.

The CHAIRMAN. You may be seated, Mr. Crouthamel. Will you give your name to the reporter, please?

Mr. CROUTHAMEL. My name is Henry A. Crouthamel. I represent the Maryland Association of Petroleum Retailers as executive secretary.

The CHAIRMAN. How many members are there in that organization?

Mr. CROUTHAMEL. About 350 at the present time. I have also been connected with other associations such as the Eastern States Petroleum Association, which consisted of six Eastern States, as vice president of that association back in about 1929 or '30. I helped to originate the National Association of Petroleum Retailers in Milwaukee during the code days. I don't recall the exact date—I think it was about '32 or '33. I was assistant to the president of that association for 2 years, and was the Washington representative of that same association during the National Recovery Administration.

REFUSAL OF CERTAIN MAJOR COMPANIES TO SELL GAS AND OILS TO "SPLIT" DEALER IN BALTIMORE MARKET

Mr. CROUTHAMEL. I only represent at the present time the Maryland Association and myself as an individual so-called divided dealer, which, when I started in business in 1918 at the same location where I am at today, in Baltimore, was called a "split dealer," handling products of different companies. Those split dealers are just about out of the picture completely. I am one of the few left in the country. My idea is that that type of operation, Mr. Chairman and gentlemen of the committee, was the only, and would be today the only, real economic way of merchandising petroleum products to the consumer, and if that would have been allowed to have been continued, the consumer today would pay less for his gasoline and lube oils and any other petroleum products than he is paying today, although the prices of gasoline have come down, as possibly has been testified before your committee.

The CHAIRMAN. You think the prices should have gone down further than they have gone?

Mr. CROUTHAMEL. I do.

The CHAIRMAN. And you believe that this whole system, which you now say has been practically eliminated, would more nearly accomplish that purpose than the one that has succeeded it?

Mr. CROUTHAMEL. Yes, sir.

Mr. AVILDSEN. Are you still running this split station?

Mr. CROUTHAMEL. Yes, sir.

Mr. AVILDSEN. You have been able to stay in business despite the handicaps of the other people who ran split stations?

Mr. CROUTHAMEL. Through the grace of God, possibly. If I didn't have a lenient mortgage company, which allowed me not to pay interest for the last 2 years I wouldn't be in business today. If I had paid interest in the last 2 years I wouldn't be there.

Mr. AVILDSEN. But you are making a profit on your station?

Mr. CROUTHAMEL. I am not.

Mr. AVILDSEN. You are operating at a loss?

Mr. CROUTHAMEL. I have operated in the red now for 4 years; this is the fourth year.

Mr. AVILDSEN. What is the name of your station?

Mr. CROUTHAMEL. "Gasoline Alley."

Mr. AVILDSEN. Is it downtown?

Mr. CROUTHAMEL. No, in the suburbs; in the Wallbrook section of northwest Baltimore. It is the original gasoline alley, and it is in my estimation the only way to serve the public for the various tastes or desires of the motoring public. There is no business, in my knowledge, that is comparable to the gasoline business in that the retailer is compelled to sell only one brand of goods. The grocer can put any brand of coffee on his shelf that he wants; he can put any meat packer's meat in his place, if he has a meat store; he can put any brand of canned goods in, a variety of a dozen or more; but the retail gasoline industry, in the last several years, the dealer is compelled, absolutely, to sell one brand of goods only, and it makes him a slave—an absolute slave.

Mr. AVILDSEN. How many brands do you handle now?

Mr. CROUTHAMEL. I have Richfield and Betholine, which is the same company, which is now under the domination of Sinclair Refining Co. I have Atlantic White Flash and Atlantic Ethyl. Those are the only two major companies that I can buy from today. The Sun Oil Co., about a year ago, notified me that they would remove their pump from my premises, which they stated was the policy, of pulling all the pumps out of independent stations. That particular pump—that location, not the particular pump, because I have had several pumps—was the first Sun gasoline pump operated in the city of Baltimore, and they have since then pulled out their pumps of practically all independent and individually owned service stations in the city of Baltimore.

Mr. AVILDSEN. Do the other major companies refuse to sell you?

Mr. CROUTHAMEL. The Standard Oil Co. of New Jersey approximately 6 months or more ago, when I got Atlantic Ethyl. I called up the sales department and inquired if I could buy Esso in my own equipment. They told me definitely "No," unless I went 100 percent and sold their products only.

Mr. AVILDSEN. They wouldn't sell you at a half cent above the current price?

Mr. CROUTHAMEL. No, sir.

Mr. AVILDSEN. Is that true of the other major companies?

Mr. CROUTHAMEL. Not all of them.

Mr. AVILDSEN. Some of them you could buy from at half a cent advance?

Mr. CROUTHAMEL. Atlantic did sell me Ethyl on the same question.

DISCRIMINATION, THROUGH PRICE DIFFERENTIAL, BETWEEN EXCLUSIVE AND "SPLIT" DEALER AND ITS EFFECT ON PRICE TO THE CONSUMER

Mr. AVILDSEN. Do you pay, without an advance, half a cent a gallon more?

Mr. CROUTHAMEL. Absolutely.

Mr. AVILDSEN. Oh, you do?

Mr. CROUTHAMEL. That is the discrimination I would like to speak of, and, Mr. Chairman, if I may be permitted—it is rather old, but I have a brief here, a copy of a brief of certain practices existing in the petroleum industry which was submitted by the National Association of Petroleum Retailers of Milwaukee approximately March 1935 to the Federal Trade Commission, treating on just that same thing, of the discrimination between the split dealer and the 100-percent dealer, and if it is agreeable, I would like to submit that.

The CHAIRMAN. Well, did the Federal Trade Commission act on it?

Mr. CROUTHAMEL. I want to answer that question in this manner, that the Federal Trade Commission has never even acknowledged it, much less acted on it.

The CHAIRMAN. Have you submitted it to the committee heretofore?

Mr. CROUTHAMEL. The original of that, signed by the president and executive secretary and myself as vice president of the first region, was mailed to the Federal Trade Commission about March——

The CHAIRMAN (interposing). I mean was it submitted to this committee before?

Mr. CROUTHAMEL. No, sir.

The CHAIRMAN. This is your first presentation of it?

Mr. CROUTHAMEL. That is correct.

The CHAIRMAN. Well, it may be received and filed. I think we will hold it up for the present.[1]

Mr. CROUTHAMEL. I think it treats and substantiates some of my statement.

The CHAIRMAN. Your statement will be made a part of the record.

(Mr. Crouthamel's prepared statement was marked "Exhibit No. 1227" and is included in the appendix on p. 9205.)

The CHAIRMAN. I would like to have you explain, if you will, why, in your opinion, you feel that this split-station service would lower the price of gasoline.

Mr. CROUTHAMEL. I will explain that in this manner, Mr. Chairman. I will take in my own location, and that applies to many, many other locations throughout the United States, and strictly in a residential area. I might state it in this manner. I personally will go to a grocery store and I want Maxwell House coffee. He tells me I can't have Maxwell House coffee in his store, but he will give me Kellogg's, or whatever the brand may be. I don't want it and I will have to go to another store. The same thing applies to the sale of gasoline. By having a variety in one location, I can sell and satisfy the tastes of the various buyers that are in that community. Otherwise, if I am compelled to go 100 percent, which I don't know why I haven't been in the past, excepting possibly thickheadedness—as I said, I could satisfy those various tastes. Otherwise, if I have six different brands,

[1] The document was later admitted to the record as "Exhibit No. 1229"; included in the appendix on p. 9211.

it would require five other stations in the same area. Those five other stations will have to draw off my gallonage on somebody else in the neighborhood.

The CHAIRMAN. I am talking about price.

Mr. CROUTHAMEL. And that builds up cost of distribution. That is what I am getting at—price. It builds up the cost of distribution and naturally the gasoline will have to be sold higher as your cost of distribution goes up. The multiplicity of stations when there is only a certain amount of gallonage in an area certainly will raise the cost of distribution.

The CHAIRMAN. Well, now, when you were selling—as you are operating your station now, do you have a variety of prices for the gasoline?

Mr. CROUTHAMEL. Only as to blends or straights; in other words regulars.

The CHAIRMAN. Regulars are all sold for the same price?

Mr. CROUTHAMEL. That is correct—in my place.

The CHAIRMAN. No matter what pump they come out of?

Mr. CROUTHAMEL. If they come out of Richfield; I will say 17.8 at the present time including tax; if it is White Flash, which is regular, of the Atlantic Co., it is 17.8.

The CHAIRMAN. Well, now, was there ever a time when you sold gasoline, regular gasoline, out of different pumps at different prices?

Mr. CROUTHAMEL. Not myself, excepting different brands. I have a non-national brand that I sell at a lower price.

The CHAIRMAN. That is right, but your experience has been that throughout the operation of your station you have always sold the regular gas at the same price?

Mr. CROUTHAMEL. That is right.

The CHAIRMAN. No matter what pump it came out of?

Mr. CROUTHAMEL. That was usually always established by the oil companies—what price we should sell at. In other words, when the price of tank wagon changed, we get a postcard the same morning stating that the price of tank wagon has gone up a half cent or three-quarters, whatever it might have been.

The CHAIRMAN. That is the same system that now applies?

Mr. CROUTHAMEL. Very few companies send out that information any more.

The CHAIRMAN. Well, the effect is the same?

Mr. CROUTHAMEL. The effect is the same.

The CHAIRMAN. The operation of either wholly owned or leased stations?

Mr. CROUTHAMEL. That is correct.

The CHAIRMAN. So that there is no element of price competition in this situation as you have described it?

Mr. CROUTHAMEL. There is plenty of price competition.

The CHAIRMAN. No; I am talking now about the split station versus the divided station.

Mr. CROUTHAMEL. Not only that; we have to pay a half cent more for the product than the 100-percent station.

The CHAIRMAN. I am trying to determine the reason you have in mind that brings you to the conclusion that divided stations would reduce the price of gasoline.

Mr. CROUTHAMEL. No, no.

The CHAIRMAN. The only reason you have given us now to date is that the cost of distribution is greater because of the undivided stations.

Mr. CROUTHAMEL. Multiplicity of stations increases your cost.

The CHAIRMAN. Well, does that imply that the major companies are operating more stations than they should operate?

Mr. CROUTHAMEL. Absolutely.

The CHAIRMAN. Does it imply that in your opinion the major companies are competing with one another for outlets in that they build more and more stations, more than they need?

Mr. CROUTHAMEL. It is greatly overbuilt; the industry is way overbuilt.

The CHAIRMAN. Well, is there any other element by which the divided station would reduce price to the consumer?

Mr. CROUTHAMEL. Not that I can think of right now.

The CHAIRMAN. Well, that is the whole story, then, so far as you are concerned?

Mr. CROUTHAMEL. Multiplicity of stations will increase your cost.

Mr. SHAUGHNESSY. Mr. Crouthamel, you have been in business, you say, since 1918?

Mr. CROUTHAMEL. That is correct.

Mr. SHAUGHNESSY. When were the most prosperous periods of that business?

Mr. CROUTHAMEL. About 1920 to about 1926 is when it started to move the other way a little bit.

Mr. SHAUGHNESSY. About how many different brands of gasoline were in your station during that period?

Mr. CROUTHAMEL. Nine.

Mr. SHAUGHNESSY. How long did that brand stay in your station?

Mr. CROUTHAMEL. What was that question?

Mr. SHAUGHNESSY. When did you start losing branded suppliers?

Mr. CROUTHAMEL. Branded suppliers were being lost, I would say, around about 1930.

Mr. SHAUGHNESSY. How many did you have in 1934?

Mr. CROUTHAMEL. I still had the nine at 1930.

Mr. SHAUGHNESSY. '34?

Mr. CROUTHAMEL. '34? I think I had still all of the nine in '34.

Mr. SHAUGHNESSY. So that it is only in recent years that you have been losing your suppliers?

Mr. CROUTHAMEL. Just since the stations were leased.

Mr. SHAUGHNESSY. Just since the stations were leased?

Mr. CROUTHAMEL. That is right.

Mr. SHAUGHNESSY. Up until then you were able to operate as a split station operator?

Mr. CROUTHAMEL. That is correct.

Mr. SHAUGHNESSY. What was your gallonage at the time that the stations were leased, about?

Mr. CROUTHAMEL. Approximately 7,000 gallons a month.

Mr. SHAUGHNESSY. What is it now?

Mr. CROUTHAMEL. Sometimes three.

Mr. SHAUGHNESSY. Usually a little less?

Mr. CROUTHAMEL. Sometimes a little less.

Mr. SHAUGHNESSY. And that is 3,000 gallons a month. What is your average dealer's margin on that 3,000 gallons?

Mr. CROUTHAMEL. That is a peculiar question.

Mr. SHAUGHNESSY. Well, take into account all the things that have to be taken into account, if you can.

Mr. CROUTHAMEL. Under present merchandising in the Baltimore area there is no set margin, although we take the old basis, supposed to be 4 cents margin on the undivided, and 3½ on the divided, above tank wagon, but that doesn't hold good because the majority of leased dealers have been forced in about the last year to to a year and a half to get quota, get gallonage, regardless of money or any profits, and in many cases they were forced to put out large discount signs—I call them circus signs, of anything from 6 for a dollar, 6 for 95, 6 for 98, 6 for 93, to get gallonage into that station, and that naturally broke down a lot of gallonage in the station that was getting a proper price at a fair and decent profit.

Mr. SHAUGHNESSY. Well, that brings up a rather interesting contrast. You say that you have lost your major company suppliers since the stations were leased?

Mr. CROUTHAMEL. That is right.

Mr. SHAUGHNESSY. And on the other hand you say that loss has caused the dealers to give secret rebates or openly post group prices?

Mr. CROUTHAMEL. Secret first and openly posted circus signs in the last year or so.

Mr. SHAUGHNESSY. That would indicate to me a pressure on the dealers to abandon service stations, rather than to over-build stations. A dealer can't keep in business forever.

Mr. CROUTHAMEL. There isn't any individual dealer that can build a service station at the present time and operate it at a profit. Only service stations that have been built by the major companies, because apparently they have a subsidy which we do not have.

Mr. SHAUGHNESSY. You say apparently. Can you develop that?

Mr. CROUTHAMEL. Well, I have a little in my statement—I don't recall just what page it is, when I speak of the pipe-line profits—on page 6.

Mr. SHAUGHNESSY. You mean at the bottom of the page?

Mr. CROUTHAMEL. First full paragraph [reading from "Exhibit No. 1227"]:

We might refer here to excess building of filling stations which is still continuing far beyond the saturation point, which has largely contributed to the cost of doing business as referred to by Mr. Beaty and again at the Cleveland hearings. Our contention is that this uneconomical building of filling stations could not have been brought about unless the major oil companies had other sources of revenue to draw on besides the profit in the marketing division. It is fairly well known that through the various integrated divisions they are passing money derived from excessive dividends paid in their production and transportation divisions and more especially the pipe-line divisions. We would like to submit the statement of the Railroad Commission of Texas in their report of December 31, 1933, which shows that 18 pipe-line companies operating in the State of Texas had a capital investment of $466,000,000, and that for the year '33 they declared over $65,000,000 in dividends, and have made a profit of 19.6 percent on the capital invested. Everyone in the oil industry will tell you that '33 was a "lean" year for them.

That is, in my opinion, where the majority of the subsidy came from, to build these palatial palaces, for which this investigation is entirely too late, because we have already got the sore spot and to eradicate that is quite a problem to do.

Mr. SHAUGHNESSY. Well, that may be a possible basic reason, but are there other means of pressure that make it difficult for even the major company dealer to make a profit?

Mr. CROUTHAMEL. Yes.

Mr. SHAUGHNESSY. I notice at the top of page 7 you say the dealer is compelled to buy various articles, uniforms, and so forth, from the major companies?

Mr. CROUTHAMEL. That is correct, aside from dealers conducting their own business as they see fit.

I might, without going farther there, state that when the companies leased their stations, very often to former managers, they were told that the station was theirs, that they were an absolutely independent dealer, but it turned out that they are not. I was in a Conoco station just a few weeks ago when a representative of the company came in and picked up a report sheet. The manager of that station, or the lessee, has to make a complete detailed report—and that is not only Conoco, but practically every company—of every transaction that goes through that station, whether he buys the articles from the Continental Oil Co. or whether he buys them from some other jobber, he still has to make a complete report of every transaction.

Now, if he is an independent dealer, my contention is that he does not need to turn in that to the major company that supplies him his gasoline.

Mr. SHAUGHNESSY. Well, following out that, is it your experience that those dealers who operate leased stations have their price in any way controlled by the supplier?

Mr. CROUTHAMEL. Verbal pressure—not written.

Mr. SHAUGHNESSY. Where is the force behind the words?

Mr. CROUTHAMEL. Just before I wrote this statement I was in a Standard oil station with three partners as lessees.

The main man—I will call him manager—of the three was in tears. He called his wife, while I was there, on the telephone and he could hardly talk to her. He told her that he couldn't get home in time, that there was something that had come up at the station here, that it was very important for him to stay. The supervisor of that company was in the doorway at the time. Naturally, I couldn't help but overhear some of the conversation. That supervisor compelled that lessee—in fact, he got into the supervisor's car and went down the street to a sign painter and had him paint a sign, "6 gallons for $1," to put out in front of his place, which was out in front of his place that night when the price to the public as advertised on the pumps was $1.07 at that time. That operator had to take that loss. He didn't want to, but he was afraid—the three of them were afraid, by the economic conditions which existed, that they were going to be thrown out of that station and could not get a job somewhere else. In other words, they had a job of $18 or $20 a week.

Mr. SHAUGHNESSY. That is what they really had instead of a lease agreement.

Mr. CROUTHAMEL. They had a job, and a slaving job, at that.

Mr. BERQUIST. That reduction was for the purpose of keeping up the gallonage?

Mr. CROUTHAMEL. That is correct. The gallon reports for the State, which I am sorry I haven't got with me today, will indicate that right directly after that pressure that was exerted at that time raised the Standard Oil of New Jersey's gallonage throughout the State.

Mr. BERQUIST. Did all of that reduction come out of the filling-station operator's margin?

Mr. CROUTHAMEL. Oh, yes.

Mr. BERQUIST. No adjustment made, then, with the supplier at all?

Mr. CROUTHAMEL. No rebates, no; in fact, recently they have increased the rents, which puts them to an additional expense.

Mr. BERQUIST. In a reduction of that kind there wasn't even any split between the supplier and the retailer to take up that reduction in price?

Mr. CROUTHAMEL. No, sir. I might state here in answer to your question that the Sun Oil Co.—I was somewhat interested when Mr. Shaughnessy read a little of Mr. Pew's statement [1]—just about 3 months ago, their gallonage was slipping throughout the State, maybe due to several reasons, I don't know, maybe taking the pumps out of independent dealers, maybe something else, we don't know, but the manager of the Baltimore area put exceptional pressure on the Sun Co. lease dealers, of which there are only about 16 in Baltimore city—there are several outside, but in the city itself—so much so that several of the lease dealers came to me and wanted to find out if I couldn't do something for them in the Philadelphia office. In fact, one of them went as far as to pay for the telephone call for me to call the Philadelphia office, and I talked to Mr. Eckert, vice president in charge of sales, I believe it is, and he told me that absolutely the policy of the Sun Oil Co. was and is today that their gasoline cannot be sold for more than a cent and a half above the advertised non-national brands or any other—non-national brand for more than a cent and a half differential.

Mr. BERQUIST. Did that restrict the margin of the retail filling-station operator?

Mr. CROUTHAMEL. The retail filling-station operator had to take that loss.

Mr. BERQUIST. How much of a loss was that?

Mr. CROUTHAMEL. Ninety-three from $1.07 would be 14 cents on 6 gallons. I asked Mr. Eckert if the Sun Oil Co. would subsidize the dealer to the extent that they were compelled to sell their gas, and he said absolutely "no"; that was the dealer's own lookout.

Mr. BERQUIST. How much margin did that leave the dealer, then?

Mr. CROUTHAMEL. Well, let's see; it was 13, 25; 6 from 93 would be—15½; that would be a cent—no; 2½ cents; but out of that they have got to pay an exceptionally high monthly rental, which is not based on a gallonage basis at the present time; gallonage on delivery is what I mean. They pay, say, a rent on gallonage of a previous season.

Mr. BERQUIST. Was this characteristic under the operation of the Iowa plan, or is this during the period of a price war?

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[1] Mr. Pew's prepared statement, not numbered, was read into the record and is included in Hearings, Part 14.

Mr. CROUTHAMEL. No; it is characteristic of the Iowa plan all throughout.

Mr. BERQUIST. We heard the other day that under the Iowa plan the operators made more money than when they were employed.

Mr. CROUTHAMEL. Well——

Mr. BERQUIST. The marketing experts, I think, indicated that under the Iowa plan the filling-station operator benefited by total net income, and that the oil companies benefited also for some reason or other. Would you say that is true?

Mr. CROUTHAMEL. I might say just the reverse of that. We are slaves. I count myself in with the dealers. We are slaves collecting that money that they pay to themselves as dividends, and are fools not to keep some of it ourselves. But the dealer himself does not make any money and hasn't made any money since the Iowa plan was put in effect. They are just barely getting wages, not even a salary. But they are afraid.

Mr. BERQUIST. Would you say, then, that the cost of distribution has been decreased as a result of the Iowa plan?

Mr. CROUTHAMEL. No; the cost of distribution has not.

Mr. BERQUIST. But the price of gasoline has gone down under the the Iowa plan.

Mr. CROUTHAMEL. Not necessarily, sir. The tank-wagon price hasn't gone down.

Mr. BERQUIST. I am speaking now of the price to the ultimate consumer.

Mr. CROUTHAMEL. Only through price wars.

Mr. BERQUIST. You stated a while ago that this condition of requiring the dealer to reduce his price was more or less characteristic rather than——

Mr. CROUTHAMEL (interposing). It is characteristic.

Mr. BERQUIST. And is not a price-war situation?

Mr. CROUTHAMEL. It has a tendency to a price war, but it is a forced price war.

Mr. BERQUIST. Would you summarize by saying that under the Iowa plan the margin for filling-station operators is less than what was maintained before the Iowa plan went into effect?

Mr. CROUTHAMEL. Yes; quite a bit less.

Mr. BERQUIST. Why would you say the Iowa plan was put into effect?

Mr. CROUTHAMEL. Largely to get away from chain-store taxes at that time.

Mr. BERQUIST. Does Maryland have a chain-store tax?

Mr. CROUTHAMEL. Maryland does not. They do have a chain-store tax, but the oil companies are exempt.

Mr. BERQUIST. Well, if that is true that they don't have a chain-store tax, and other States do not have them as well, what would be the reason for these companies going over to the Iowa plan in those States in which there was not a chain-store tax?

Mr. CROUTHAMEL. The social-security tax and the unemployment tax came on about the time that they leased them in Maryland. They did not lease them in Maryland when they did in Iowa.

Mr. BERQUIST. A number of people have stated here that the major companies were losing money on marketing when they marketed them-

selves. Would it follow that the Iowa plan was adopted to reduce some of those losses in marketing?

Mr. CROUTHAMEL. That is possible that that may be part of the contributing factors. I have part of that in my statement, I believe.

Mr. BERQUIST. When the service-station price comes down and the margin of the retail dealer is reduced, is the tank-wagon price to the dealer reduced?

Mr. CROUTHAMEL. No, sir.

Mr. BERQUIST. Then the effect of a price war is not felt by the major oil company who sells at tank wagon at the filling station.

Mr. CROUTHAMEL. That is correct.

Mr. BERQUIST. It would seem, then, possibly that some of the burdens of distribution have somehow been shifted to the independent businessman.

Mr. CROUTHAMEL. That is correct.

Mr. BERQUIST. And they got the benefits in the form of higher net annual income. Is that right?

Mr. CROUTHAMEL. Decidedly so.

Mr. BERQUIST. They got higher annual income?

Mr. CROUTHAMEL. Decidedly so.

Mr. BERQUIST. The service-station operators?

Mr. CROUTHAMEL. No, no; the companies. The service-station operator is going out completely.

In line with your question, I would like to submit, Mr. Chairman, if I may—I think this is one of the contributing factors, too—something that the Shell Oil Co. puts up in all their stations, stating that the dealer of that particular station is absolutely independent. In my opinion, Mr. Chairman and members of the committee, it is nothing excepting an evasion of responsibility, which again reduces the cost of the major oil company on insurance and the like of that in case there should be an accident or any other thing that the major oil company should carry insurance on.

This compels the lessee to carry the insurance on the place.

The CHAIRMAN. Do you contend that there are no bona fide lessees?

Mr. CROUTHAMEL. Absolutely not. They are not equitable by any means.

The CHAIRMAN. Where did you get this notice that you present to the committee?

Mr. CROUTHAMEL. I asked a lessee of that particular station—that is the lessee's name signed on it—if I could take it off his wall. He said, "I expect to go out of this station anyhow. Go ahead and take it." I didn't steal it.

Mr. BERQUIST. Mr. Crouthamel, you said that the cost of distribution has been reduced. Is this one of the means by which the cost of distribution is being reduced, by the reduction of margins that the lessee operators are privileged to enjoy? If you were enjoying a 4-cent or a 3½-cent margin before, and for some reason or other your price was put down a cent, as you have indicated, at the instance of some major company representative, thereby reducing your margin, is that a method employed to reduce the price of gasoline?

Mr. CROUTHAMEL. In the majority of cases.

Mr. BERQUIST. The reduction came out of the service-station operator's pockets?

Mr. CROUTHAMEL. Absolutely.

The CHAIRMAN. The notice may be admitted.

(The service-station placard referred to was marked "Exhibit No. 1228" and is included in the appendix on p. 9211.)

Mr. CROUTHAMEL. On page 8 there is something along that line in the first full paragraph [reading from "Exhibit No. 1227"]:

> Mr. John R. Sherwood, when interviewed on the pressure that they were creating on their dealers to reduce prices to meet competition, told us that the day of 4-cent (4¢) margins on gasoline was gone, and that the only thing we could hope for was to organize and fight against having it become two cents (2¢) per gallon. Sherwood Brothers were a local concern until several years ago, when they affiliated with Richfield. Shortly thereafter Richfield was placed in the hands of receivers and was then purchased by court order by Sinclair Refining Company. We have been told, on numerous occasions, by the Standard Oil Company of New Jersey approximately the same thing, that is, a three-cent (3¢) margin on gasoline would be sufficient to operate dealer stations in this area.

We have been told that many, many times. In other words, I really don't believe, as you indicated, Mr. Chairman, that there are any leases excepting subterfuges, to get by responsibility as I showed you on that card and to get by the entire cost of operation of the stations, all types of taxes, cleaning compounds for the driveways, as I have in the statement, even down to fancy-odored soaps, and they even have to purchase toilet paper from the company that supplies them with gasoline. They can't go out in the open market and buy any of those commodities. I think it is a pretty pass when the American public has got to be enslaved in that manner.

The CHAIRMAN. How many independent dealers are there now in the area in which your association operates?

Mr. CROUTHAMEL. Individually owned properties are about 20 percent.

The CHAIRMAN. Twenty percent of the total?

Mr. CROUTHAMEL. That is correct. There was about 80 percent just before the code days.

The CHAIRMAN. Just before what?

Mr. CROUTHAMEL. Just before the National Recovery Act.

The CHAIRMAN. What about the actual number? How many were there at that time before the N. R. A., and how many are there now?

Mr. CROUTHAMEL. In the city of Baltimore, that is, within the city of lines, we have 800-some-odd stations, that is counting every curb pump, automobile agency that has pumps, everything that comes under the bureau of weights and measures, there are 800-some—862, I think, is the correct figure. Out of that there are only about 150 that are actually independently owned or individually owned. Amongst those most of them have been forced into 100 percent, or coerced, I wouldn't say forced, coerced into a 100-percent contract with their suppliers.

The CHAIRMAN. One hundred and fifty?

Mr. CROUTHAMEL. That is right. There are very few split stations left.

The CHAIRMAN. How many independent stations were there before N. R. A.?

Mr. CROUTHAMEL. Right about the N. R. A. time—I had the correct figures of the stations from the Bureau of Weights and Measures—I think there were about 600 and some complete, of which I think there were around 100 that were company owned and operated at that time.

The CHAIRMAN. So do you wish the committee to understand that there were about 500 independent stations before N. R. A. and that there are only about 150 now?

Mr. CROUTHAMEL. That is right.

Mr. BERQUIST. Who has built the new stations that have been built, an increase of a couple of hundred stations?

Mr. CROUTHAMEL. The oil companies. In a few cases real-estate operators have built them, and we have one instance in Baltimore city where a real-estate operator builds to a certain oil company's specifications and then leases that station afterward because this particular real-estate operator has quite a drag at the city hall and can get permits.

Mr. BERQUIST. Would you say that the average, then, per station is going up or going down?

Mr. CROUTHAMEL. Just what is that question, please?

Mr. BERQUITS. The average gallonage per station.

Mr. CROUTHAMEL. The average gallonage per station is down.

Mr. BERQUIST. Going down?

Mr. CROUTHAMEL. Oh, yes; decidedly so.

Mr. BERQUIST. And the margin is going down?

Mr. CROUTHAMEL. Decidedly so.

Mr. BERQUIST. The net result if both of those are going down means less income for those operating.

Mr. CROUTHAMEL. That is right.

Mr. BERQUIST. Let me ask this further question. If the income continues to go down, do you think there will be a number of these filling stations abandoned, with the result that there will be a greater gallonage per station and that will afford greater income per station operator?

Mr. CROUTHAMEL. That is entirely possible, although I am not sure about that question. I know a lot of independently or individually owned must go out, I know that.

Mr. BERQUIST. Is it characteristic when some goes bankrupt in operating a filling station that the filling stations close up or does someone else take them over?

Mr. CROUTHAMEL. In some cases they close up; occasionally somebody else takes them over until he breaks.

Mr. BERQUIST. How do you account for the fact, then, that the number of filling stations going in, being built by major companies, could be considered as profitable ventures? They have a lot of new nice filling stations going up. We have heard they cost considerable money. What are the prospects of those making out? Are they the stations that get the big gallonage and therefore are profitable?

Mr. CROUTHAMEL. They are not profitable. They can't be profitable. A year and a half or two years ago the Gulf Refining Co. entered the city of Baltimore. They had not merchandised any gasoline as Gulf in the city because they had a contract with a large jobber which distributed their products. About a year and a half or two years ago they appropriated a million and a quarter dollars to build 20 filling stations in the city of Baltimore, to enter that field. I was rather friendly at the time with the powers that be, and I know that a million dollars was the cost of those 20 stations. The other $250,000 was used possibly for some other source. I know

the city council was in summer recess during the time. They at that time handed out the permits to build filling stations. It is entirely possible that some of the quarter million might have been used to call the city council back into a special session to grant permits to 20 new filling stations, which was not a legislative act; the city council determines in which way and which manner——

The CHAIRMAN (interposing). That is a pretty broad assumption.

Mr. CROUTHAMEL. But they were called back and they got their 20 permits, which cost $1,000,000. No 20 individuals could spend $1,000,000 on 20 filling stations and expect to do business at a profit. It is just impossible. So the money must have come from some other sources. We have no subsidy of that nature.

The CHAIRMAN. Are there any other questions?

Mr. O'CONNELL. I should like to ask you one question. On page 8 of your statement there is a reference to the so-called fair trade act in Maryland. Do I understand that fair trade act or resale price maintenance act does not apply to gasoline?

Mr. CROUTHAMEL. It does not apply?

Mr. O'CONNELL. I am asking you whether it does.

Mr. CROUTHAMEL. I might state this, that the fair trade act that is spoken of here is the act which permits any manufacturer of a trade-marked article to establish a minimum resale price, but it is not compulsory. About 95 percent of all of the dealers in the State of Maryland, except on the Eastern Shore, petitioned these various oil companies which supply them to invoke or use the fair trade act and establish a minimum resale price to do away with this tremendous price cutting so that the operator could make a profit. They had already put it in effect in New Jersey under the New Jersey State Act, which was similar, in fact was identical to the Maryland law. It is an act under the Miller-Tydings Act. They flatly refused to use that in Maryland.

Mr. AVILDSEN. What reason did they give?

Mr. CROUTHAMEL. They told us that the bill specifies that a package or container which bears a trade-mark or label might not be interpreted in some court action later on as meaning a gasoline pump. My contention is that the container and gasoline is under the ground and can't be labeled or trade-marked where people can see it, but through its continuous piping up through the pump which dispenses the gasoline and out through the hose to the car the pump is trade-marked and it all becomes one unit through its piping and hose; therefore, if the label would be on the pump, it certainly would be the package or container and should be interpreted as such by the courts.

Mr. AVILDSEN. You say they did do this in Jersey?

Mr. CROUTHAMEL. In Jersey they are operating it now, and in greater New York, in four counties in New York they are operating under the same fair-trade act. In California they are operating under that same fair-trade act.

Mr. AVILDSEN. The same oil companies that sell in Maryland sell in Jersey?

Mr. CROUTHAMEL. The same oil companies sell in Jersey and Maryland and New York. All the Standards are Standard Oil Co.

Mr. AVILDSEN. Have you ever pointed out to them that they were willing to do it in New Jersey and New York?

Mr. CROUTHAMEL. Absolutely.

Mr. AVILDSEN. What is the answer to that? It is the same law; isn't it?

Mr. CROUTHAMEL. Their excuse was that in New York they had had a similar case that had gone through the appellate court in New York, and therefore they used it there because a similar case had been through the courts.

Mr. AVILDSEN. Why don't you fellows put a test case through the courts of Maryland?

Mr. CROUTHAMEL. There has been a case put through, but they won't listen to us even on that.

Mr. AVILDSEN. You mean the Maryland courts won't?

Mr. CROUTHAMEL. The Maryland court upheld that same Fair Trade Act as being constitutional not over—it was argued in March of this year, and they were possibly about a month before they handed down a decision. The case of Johnson-Mead Co. and the Goldsmith Cut Rate Stores, I believe it was.

Mr. SHAUGHNESSY. How did you go about petitioning the major oil companies on this point?

Mr. CROUTHAMEL. I personally did quite a lot of work. I got petitions similar to what a Pennsylvania outfit had, and had them mimeographed and took them throughout the counties and got dealers together and had them sign that petition. Then we took them to New York, to the Standard Oil Co., at 26 Broadway, and we took them into the various other companies in Baltimore and Philadelphia, wherever they had their offices.

Mr. O'CONNELL. Do you sell Standard Oil?

Mr. CROUTHAMEL. No, sir. I can't, they won't sell me any.

Mr. O'CONNELL. Did you go to New York to talk to the Standard Oil people?

Mr. CROUTHAMEL. That is right. I was chairman of the committee that went there and made the arrangements to go there.

Mr. O'CONNELL. As a practical matter, would it have been reasonable for you to expect one oil company to operate under a fair-trade law which would fix the minimum price unless the other major companies did the same thing?

Mr. CROUTHAMEL. These petitions were delivered at the same time to all of the oil companies. It is only natural that there is a market leader, or has been, in a territory, so it is only natural that we should make a personal call on the market leader with those petitions in person, and the others were delivered by mail or in person to the officers, but not a committee to wait on them.

Mr. O'CONNELL. When you speak of a market leader do you mean a market leader for the tank-wagon price or for the retail price?

Mr. CROUTHAMEL. I think that includes both.

Mr. O'CONNELL. I was under the impression that the tank-wagon price was the price at which gasoline was sold to dealers.

Mr. CROUTHAMEL. That is correct.

Mr. O'CONNELL. And the retail price, I would think, would be the price at which the dealer sold to the consumers. Is there a market leader in both of those price ranges?

Mr. CROUTHAMEL. Well, the market leader that I speak of is the company. Now, through the pressure that they create on the dealer to sell at certain prices, they practically set the retail price.

Mr. O'CONNELL. Well, the tank-wagon price, I take it, is at any given moment pretty stable

Mr. CROUTHAMEL. That is correct.

Mr. O'CONNELL. And in that particular area there is ordinarily a market leader, a large company which will post a price which is ordinarily met by the other companies.

Mr. CROUTHAMEL. That is right In our territory it is usually known as Standard of New Jersey.

Mr. O'CONNELL. Does that situation prevail in the retail price field? Is there a price leader in the retail field to the same extent as there is in the jobbing field?

Mr. CROUTHAMEL. Well, some refer to it as holding an umbrella. For instance, in our area the Standard of Indiana, which is the American Oil Co., retained their own outlets, didn't lease any.

The CHAIRMAN. Testimony here is that the American Oil Co. is a subsidiary of the Pan-Am, which, in turn, is a subsidiary of Standard of Indiana.

Mr. CROUTHAMEL. That is correct, and they then established a retail price which we have to follow if we want to sell anybody. Then, on the other hand, each major oil company that had operations of their own retained a key station, they call it, and they establish the price in that key station. For instance, the Standard of New Jersey has one at twentieth and Charles Street in Baltimore. Just a day or two ago, a lessee who had been manager of a Shell station within about a mile of my place called me up and wanted to know if I knew where he could get a station. I said, "Listen, what is the matter with your station up there?"

He said, "The Shell Oil Co. is taking my station back and going to create a key station." Now the Sun Oil Co. is doing the same thing right now. So, naturally, they establish the retail price in those key stations. Before that it was by coercion.

Mr. O'CONNELL. Let me see if I understand you. By a key station you mean what would in effect be the market leader for the retail price for the retailers selling the gas of that particular company. That is right?

Mr. CROUTHAMEL. I don't get that question altogether.

Mr. O'CONNELL. You suggest that the major companies, at least in Baltimore, have a practice of keeping what you call a key station, a retail outlet?

Mr. CROUTHAMEL. That is correct.

Mr. O'CONNELL. We were discussing price leaders. Do I understand that the price posted at a key station is the price at which their other outlets are expected to retail gasoline?

Mr. CROUTHAMEL. As a general rule.

Mr. BERQUIST. Have those key stations led in any price cuts?

Mr. CROUTHAMEL. Not to my knowledge. They are simultaneous in most cases, so it is hard to say just whether they are leading or whether the dealer himself was leading.

The CHAIRMAN. Have you completed your statement?

Mr. CROUTHAMEL. I think so, excepting I want to refer to something here that was referred to that I overheard about the tire stations. Those tire stations in any city where they operate, such as Goodyear or Firestone, operate their company stores and are all split stations. They operate, practically all of them, at a loss, and the reason they are split stations is because the various oil companies have national accounts whereby they furnish tires to their own stations, to their own leased stations; therefore, I will say Sinclair, who sell Goodyear tires, which I have in the statement there, naturally the Goodyear service store in Baltimore would handle Sinclair products. Sherwood Bros. handle Goodyear; naturally, they would handle Sherwood's products, and so on. That is the reason for those tire stores having a split station, or divided station.

I have no suggestions and no remedy, because every time that we are asked or approached for a remedy, we don't know of any because the retailing of gasoline is rather peculiar. We are told that it is entirely intrastate because of the case of the United States Government and H. L. Miles, in the United States District Court of Baltimore, where there was handed down a decision that when the product comes into the State of Maryland, and is then reparceled, it becomes purely intrastate from there on.

I just want to give you this point, if I may. In my mind it has always been a question where intrastate and interstate begins and stops.

The CHAIRMAN. It has been a question in a good many minds for a good many years.

Mr. CROUTHAMEL. I will tell you why I say that. These particular major oil companies—I am not belligerent to them whatsoever; all I want to is to make a living; but as far as their distribution is concerned—for instance, from their bulk terminals where it is deposited from cargo, on to Maryland soil, and is then reparceled from there on, they claim it is intrastate. The Robinson-Patman Act and other various antitrust acts do not apply. But since the wage-and-hour bill has come in, their employees in the offices which do the business transactions between New York and Baltimore and Philadelphia, New York, and Norfolk, or wherever it may be, they come under the Wage and Hour Act.

Now, if that is interstate, I believe the movement of the product borders very near to interstate, and therefore the Robinson-Patman and some of your other antitrust acts, should cover, and I think you have ample laws to cope with, although there is a lot of time consumed in investigations and what not. I think there should be, at some time or other, a legislative interpretation of where interstate and intrastate begins and ends, that we might know. We don't produce any oil in Maryland.

The CHAIRMAN. Well, thank you very much, Mr. Crouthamel. The committee is indebted to you for your statement.

Mr. CROUTHAMEL. It is a pleasure to have been here.

Mr. SNYDER. I offer for the record the brief of the National Petroleum Retailers' Association.

The CHAIRMAN. Without objection, it may be accepted.

(The brief referred to was marked "Exhibit No. 1229" and appears in the appendix on p. 9211.)

The CHAIRMAN. You desired to have it printed, did you?

Mr. SNYDER. Yes.

The CHAIRMAN. The committee tomorrow will hear Mr. George B. Ingram, of Canton, Ohio. There are one or two other witnesses, Mr. Hartley, Mr. Hewett, Mr. Farish, and Mr. Anderson. The committee will stand in recess until 10:15 tomorrow morning.

(Whereupon at 4:50 p. m. a recess was taken until the following morning at 10:15.)

INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

WEDNESDAY, OCTOBER 11, 1939

United States Senate,
Temporary National Economic Committee,
Washington, D. C.

The committee met at 10:25 a. m., pursuant to adjournment on Tuesday, October 10, 1939, in the Caucus Room, Senate Office Building, Representative Clyde Williams presiding.

Present: Representative Williams (acting chairman); Messrs. Henderson, Lubin, O'Connell, and Brackett.

Present also: Clarence Avildsen, representing the Department of Commerce; Quinn Shaughnessy, representing the Securities and Exchange Commission; Representative Mapes (Michigan); Hugh Cox, W. B. Watson Snyder, F. E. Berquist, Christopher Del Sesto, Special Assistants to the Attorney General; Leo Finn and Roy Cook, Department of Justice.

Acting Chairman Williams. The committee will come to order, please.

TESTIMONY OF GEORGE B. INGRAM, PRESIDENT, NEW DEAL OIL CO., CANTON, OHIO

Acting Chairman Williams. Do you solemnly swear that the testimony you are about to give in the matter now pending will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Ingram. Yes, sir.

Acting Chairman Williams. Give your name, experience, and connections to the committee.

Mr. Ingram. My name is G. B. Ingram. I am president of the New Deal Oil Co., located at Canton, Ohio. We are a corporation under the Ohio laws, incorporated in 1933, $20,000.

Acting Chairman Williams. How long have you been in the oil business?

Mr. Ingram. Over 25 years.

Acting Chairman Williams. Where?

Mr. Ingram. In various parts of the country.

Acting Chairman Williams. In what capacity?

Mr. Ingram. Well, from laying staves in a refinery in the early days to sales work, finally in the business for myself. I started with Waverly Oil, later migrated from Waverly into the brokerage business, later with Armstrong, Fred G. Clark, Cities Service of Boston, Pennsylvania of Warren, and various other companies.

Acting Chairman WILLIAMS. Have you a prepared statement?

Mr. INGRAM. Yes, sir.

Acting Chairman WILLIAMS. It has been filed, has it, with the committee?

Mr. INGRAM. Yes, sir.

Acting Chairman WILLIAMS. And you now offer it for the record.

Mr. INGRAM. Yes, sir.

(The statement referred to was marked "Exhibit No. 1230," and is included in the appendix on p. 9219.)

Acting Chairman WILLIAMS. You may proceed to give the high points of that statement in your own way.

JOBBER CONTRACTS, MARGINS, AND POSTED PRICES

Mr. INGRAM. The New Deal Oil Co. is a small company. We operate a few stations and do a very small jobbing business, some brokerage business.

I am going to go right into the exhibits that I have here, and present them to the best of my ability.

I am going to offer, first, as exhibit A, a contract between the Pennzoil Co. and myself, dated October 26, 1934.[1] This contract covers my requirements of gasoline and lubricating oils. It is for 1 year, beginning on October 26, 1934, and ending on October 25, 1935, unless canceled for cause by either party as herein provided, and as automatically renewed thereafter for yearly periods. The contract may be canceled by either buyer or seller, delivered in writing, delivered to the other party's main office not less than 30 days prior to any expiration.

I am going to drop down, then, to a paragraph marked "Prices: Pennzip." [Reading from "Exhibit No. 1231":]

> Price on Pennzip Gasoline to be that published in Platt's Oil-o-gram on date of each shipment, as quoted by the Standard Oil Company of Ohio, for 65 Octane gasoline in tank cars, with freight allowed to Ohio destination. It being further agreed that if such price does not allow a margin of six (6¢) cents under the state-wide retail price for X70 gasoline, as posted by the Standard Oil Company of Ohio, the Buyer is to be billed at a price which will give such margin.

I offer this to show that my price is based on the price as set by Standard Oil, and that they have, together, agreed on the price that the merchandise shall be sold to me for.

I am going to drop, then, down to another paragraph, which says "Point of Delivery." [Reading further from "Exhibit No. 1231":]

> Oil City, Pennsylvania, in tank cars, freight allowed to Canton, Ohio.

Regardless of any reduction in freight rate that might take place, or otherwise, I get no benefit.

"Prices on other products" is another paragraph:

> In consideration of the benefits accruing to the Buyer as a distributor of Pennzoil branded products, Buyer states his willingness to purchase from the Seller his entire requirements of gasoline and kerosene. Prices on other than branded products to be the low of Platt's Oil-o-gram for Western Pennsylvania on date of shipment. * * *

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[1] Admitted for the record, infra, p. 8953, as "Exhibit No. 1231."

Then I am going to read another paragraph marked No. 14:

> This contract is to run concurrently with a lubricating oil contract made between the Seller and Buyer, of even date. If Buyer at any time discontinues the handling of Seller's brands of lubricating oil, through its several stations, then this contract may be canceled at the option of the Seller.

I offer this original contract, and I request that it be given back to me as evidence.

Acting Chairman WILLIAMS. Mr. Snyder, have you examined these files?

Mr. SNYDER. Yes; Mr. Ingram is a party to the contracts and received the letters.

Mr. INGRAM. I beg your pardon, I would like to read the letter that came attached to the contract.

> Supplementing this contract, we agree that in the event of a depressed price condition in the State of Ohio, or in the City of Canton, as posted by the Standard Oil Company of Ohio that based on the present retail price of 17¢, your margin will be reduced one-half of such reductions until it reaches 5¢. * * *

Mr. COX. Is this the original contract?

Mr. INGRAM. Yes, sir; it is my copy of it.

Mr. COX. And that is your signature at the end?

Mr. INGRAM. That is my signature; yes, sir.

Mr. COX. I suggest that there seems to be no question as to the authenticity.

Acting Chairman WILLIAMS. It may be received in evidence.

(The contract and letter referred to were marked "Exhibit No. 1231" and are included in the appendix on p. 9221.)

Mr. CHANTLAND. I believe the witness asked that it be returned to him. Could a photostat be put in the record so that he has his original?

Acting Chairman WILLIAMS. It will be copied.

Proceed, Mr. Ingram.

Mr. INGRAM. I offer as evidence my exhibit B. This letter is dated March 25, 1938, from the Pennzoil Oil Co. It is headed "Distributors in Ohio." This letter is more of a threatening nature, inasmuch as it threatens me if I pass on any of my margin. I will read the letter:

> Effective March 21st, 1935, and until further notice, we are increasing the margin on Pennzip and Pennzip Ethyl Gasoline to our distributors in Ohio to 6¢ off the retail price for the State of Ohio as posted by the Standard Oil Company of Ohio.
>
> The recent retail price advance affords us an opportunity to pass along this additional margin to our distributors. Under no consideration must any of this increase be given to dealers. The dealer structure remains the same, and if we receive any evidence that this increase is being passed along and dealer margins are increased, we may have to recall the additional margin to the distributor.
>
> This margin is being given with full realization that it is difficult for the distributor to operate on the present spread, and we sincerely hope and trust that it will be permanent. We cannot give any assurance that it will be.

May I comment a little on this?

Acting Chairman WILLIAMS. By whom is that signed?

Mr. INGRAM. W. R. Birkmayr, manager of the gasoline division of the Pennzoil Co.

Acting Chairman WILLIAMS. That was received by you through the mail?

Mr. INGRAM. Yes, sir.

Acting Chairman WILLIAMS. In the regular course?

Mr. INGRAM. Yes, sir.

Acting Chairman WILLIAMS. Proceed.

Mr. INGRAM. May I comment?

Acting Chairman WILLIAMS. Yes.

Mr. INGRAM. If in March of 1935 the distributor was allowed a 6-cent margin below the retail price of the Standard Oil Co. of Ohio, at this present date he is only getting a margin in Canton—our price today is 15 cents; it is 2½ cents off to the dealer and 1½ off to the distributor.

I will have to figure that. He is only getting a 4-cent margin.

Mr. AVILDSEN. Mr. Ingram, back in '34, there, where you had a margin of 6 cents, did you give some of that to the dealer? Did you today is 15 cents; it is 2½ cents off to the leader and 1½ off to the dealer?

Mr. INGRAM. Did I make a gross profit? No, sir; the margin to the dealer at that time, if I recall correctly, was 3½ cents, but I both operate wholesale and retail.

Mr. AVILDSEN. They meant, then, that you should not give the dealers more than 3½ cents when they said you shouldn't give any of this additional margin away.

Mr. INGRAM. If that was the margin at the time; yes, sir. I don't remember exactly the margin.

I would like to submit this letter.

Acting Chairman WILLIAMS. It may be received.

(The letter referred to was marked "Exhibit No. 1232," and is included in the appendix on p. 9223.)

Mr. INGRAM. It will be a matter of public record, I imagine.

Acting Chairman WILLIAMS. It will be a matter of record if it goes into this record.

Mr. INGRAM. I am submitting a letter as exhibit C of the Pennzoil Co., dated September 17, 1935, addressed to the New Deal Oil Co., attention Mr. L. E. Ingram. They seem to have the initials wrong. "L. E." are my wife's initials instead of mine.

Reply to your letter of September 5th regarding your contract which expires October 25, 1935, was delayed due to my absence from the city.

Your present contract automatically renews itself unless cancelled at least thirty days before its expiration date.

As far as we know now we do not expect to make any changes in distributor contracts in Ohio. We are, therefore, not submitting any new contracts at this time.

I will comment later. I would like to submit that for the record.

Acting Chairman WILLIAMS. It may be admitted.

(The letter referred to was marked "Exhibit No. 1233," and is included in the appendix on p. 9224.)

Mr. INGRAM. Exhibit D, a letter dated September 23, 1935, addressed to the New Deal Oil (reading):

Supplementing our letter of September 17th, we wish to advise you that we are not making any change in your present contract, which automatically renews itself on October 25th.

We trust that we will have the pleasure of serving you this year as we have in the past, and that our relations will continue to be pleasant.

That is signed by W. R. Birkmayr, manager, gasoline division, Pennzoil Co. I would like to submit that, and I would like to comment on it.

Acting Chairman WILLIAMS. It may be admitted.

(The letter referred to was marked "Exhibit 1234" and is included in the appendix on p. 9224.)

Mr. INGRAM. The contract which I submitted to you as exhibit A[1] was one that was made in the early days of the code, but if I am correct the code expired sometime in the early part of 1935 or was declared unconstitutional, but this contract takes effect as of October 1935 and runs through to 1936. It still contains in it that the prices are based upon the Standard Oil Co. of Ohio's price, and what I want to bring out there—which I can at this time, I guess—is that they didn't know the Madison cases or trials were going to start when they renewed that contract. Very shortly thereafter they did find it out.

I want to submit as evidence my Exhibit E, from the Pennzoil Co., a letter, and attached to this letter I have a contract which is a contract dated October 25, 1936, and it is the contract I am still operating under. It shows some of the changes that took place in this after the Madison grand jury started.

Our gasoline contract with you expires on October 25, 1936.

Mr. HENDERSON. Is this the letter?

Mr. INGRAM. Yes, sir.

Mr. HENDERSON. Accompanying the contract?

Mr. INGRAM. Yes, sir.

Mr. HENDERSON. Will you read the date, to whom it is addressed, and by whom signed?

Mr. INGRAM. September 14, 1936; addressed to the New Deal Oil Co., Canton, Ohio; signed, W. R. Birkmayr, manager, gasoline division.

Our gasoline contract with you expires on October 25, 1936. This contract has an automatic renewal clause which provides that it shall continue from year to year unless either party notifies the other party in writing at least 30 days prior to the expiration date, or any yearly extension thereof.

As our present form of contract is rather antiquated, it is our intention to submit to you a new type of contract, which will be effective as of the expiration date of your present contract. This is notice that we are cancelling your contract with us for gasoline in its present form at its first expiration date.

You probably realize the necessity of having a new form of contract as well as we do, so no further explanation is necessary. A new contract will be submitted to you within a reasonable time before the expiration date of your present contract.

Now, I have my contract here. Contract between the Pennzoil Co. and the New Deal Oil Co., Canton, Ohio. The term of the contract is October 26, 1936, and ending on October 25, 1937—

and unless cancelled for cause or by either party as hereinafter provided is automatically renewed thereafter for yearly periods. This contract may be cancelled by either Buyer or Seller, giving notice in writing delivered to the other party's main office not less than thirty days prior to any expiration date.

I want to show you here a change that took place in this contract over the other one.

Prices on PENNZIP and PENNZIP ETHYL—

[1] "Exhibit No. 1231," appendix, p. 9221.

This paragraph I will explain later—

Prices on PENNZIP and PENNZIP ETHYL Gasoline delivered hereunder shall be two (2¢) less than the seller's posted tank-wagon price to undivided dealers, as posted in its office in Oil City, Pennsylvania, for the state of Ohio.

They eliminated the Standard Oil Co. from that paragraph in this new contract.

The next paragraph that I want to call your attention to is Point of Delivery:

Oil City, Pennsylvania, in tank cars, freight allowed to Canton, Ohio.

I want to call your attention to another paragraph which says:

Prices on other products. In consideration of the benefits accruing to the Buyer as a distributor of PENNZOIL branded products, Buyer states his willingness to purchase from the Seller his entire requirements of gasoline and kerosene. Prices on other than branded products to be the low of Platt's Oilgram for "Western Pennsylvania other districts" on date of shipment, f. o. b. Oil City, Pennsylvania.

I want to refer you to the paragraph marked 13 in here.

This contract is to run concurrently with a lubricating oil contract made between the Seller and Buyer, of even date. If Buyer at any time discontinues for any reason the handling of Seller's brands of lubricating oil, through its several stations, then this contract may be cancelled at the option of the Seller.

Acting Chairman WILLIAMS. In a word what is the difference between that contract and the other one?

Mr. INGRAM. This contract here puts my margin on the basis of the tank wagon. It has eliminated from it entirely the service-station basis; it has eliminated from it the Standard Oil Co. of Ohio's posted price and set up the price at their refinery. The difference in this contract—I would like a lot better to be operating on the old contract than this one, because I would at least be getting more money than I am getting now.

Mr. COX. Is this the contract you are operating under today?

Mr. INGRAM. Yes, sir.

Mr. HENDERSON. To emphasize its significance before you introduced it, you seemed to tie it up with the beginning of the Madison suits. Is that just an impression of yours or do you think the change actually came about due to the starting of that case? Have you any evidence of that?

Mr. INGRAM. Well, as for authentic evidence, no; I have not.

Mr. HENDERSON. You had no discussions with officers of your supplying company, Pennzoil, that would indicate——

Mr. INGRAM (interposing). Do you mean verbal discussions? Plenty.

Mr. HENDERSON. Well, on direct testimony from them, was there any indication that it was due to the questions raised in the *Madison case?*

Mr. INGRAM. Well——

Mr. HENDERSON (interposing). I am trying to determine why you tie the two up. They indicate to you in that letter that you know you ought to have a different contract and they do, too, so they are sending one along. There is nothing said about the *Madison case* or any of the reasons.

Mr. INGRAM. They indicated I needed a new contract. I didn't ask for a new one. They gave it to me and I had the option of accepting it as it was. Their statement at the time, at which the price

was set up and so forth, was contrary to law, and they would have to make a change.

Mr. HENDERSON. Now, let me get that straight. You had conversations with officers or representatives——

Mr. INGRAM (interposing). Representatives, that's it.

Mr. HENDERSON. Of Pennzoil, and they indicated they could no longer use the Standard Oil published price as a basis for the price to you, because of the *Madison case?*

Mr. INGRAM. Yes, sir. They are still following that price; we never deviate. We change when Standard does.

Mr. HENDERSON. I am just trying to get explicit what I sense from your testimony, and you say to me that actually representatives of the company—now, what representatives of the company?

Mr. INGRAM. Well, there are three or four calling on me.

Mr. HENDERSON. I am asking what representative on this particular reason for the change?

Mr. INGRAM. That I couldn't tell you. I don't remember exactly. I think all of them that called me at the particular time.

Mr. HENDERSON. What would they say?

Mr. INGRAM. Well, they would say, "Well, here we are in one devil of a mess up here in Madison. They are showing this thing up where the price is arranged and trying to make it look like a case of monopoly, and we have got to change our form of contract. You won't suffer by it. We will go along on the same basis. The price will be based on Standard's, but it won't be in the contract on that basis."

Mr. HENDERSON. Was that said to you more than once?

Mr. INGRAM. I imagine it was.

Mr. HENDERSON. I don't want imagination. This is a fairly serious matter you are presenting. I don't want any imagination on it. I ask you the direct question: Was what you have indicated as the nature of a conversation with a representative of Pennzoil concerning the reason for the change said to you more than once?

Mr. INGRAM. I would say yes.

Mr. HENDERSON. And that was your understanding as to the reason for the change in that contract?

Mr. INGRAM. Yes, sir.

Mr. HENDERSON. There had been no change in your business that required a change in your contract?

Mr. INGRAM. No change in my business; no, sir.

Acting Chairman WILLIAMS. As a matter of fact, as I understand you, the policy was not changed. Is that right? It was simply a change in the words of the contract, but you continued under the old system just the same.

Mr. INGRAM. Yes, sir; you are correct.

Mr. BERQUIST. May I ask, in that first contract you were allowed 6 cents off of service-station price.

Mr. INGRAM. Yes, sir.

Mr. BERQUIST. If the service-station price went off, you still retained your 6-cent margin. You were safe in your 6-cent margin. Then, when you switched to the other type of contract, which was 2 cents off tank wagon, supposing then the retail market went off. Were you protected in your margin, or would you have to split some of that loss with the retail dealers with whom you sold?

Mr. INGRAM. Well, paragraph 12 says [reading from "Exhibit No. 1235"]:

The Buyer agrees to maintain the resale price schedule established by the Seller from time to time for branded and/or trade-marked products, and to incorporate a similar requirement in any contracts buyer may make with a purchaser for resale.

Mr. HENDERSON. To whom does that refer? What are you reading from?

Mr. INGRAM. The contract.

Mr. HENDERSON. Which contract?

Mr. INGRAM. Pennzoil contract.

Mr. HENDERSON. The old contract?

Mr. INGRAM. No, sir; October 26, 1936.[1]

Mr. HENDERSON. Read that again, please.

Mr. INGRAM (reading):

The Buyer agrees to maintain the resale price schedule established by the Seller from time to time for branded and/or trade-marked products, and to incorporate a similar requirement in any contracts Buyer may make with a purchaser for resale. The Buyer further agrees that he will, during the life of this agreement, adhere to and strictly observe all of the general marketing policies of the Seller.

Mr. HENDERSON. What does that mean in terms of your resale price? Do you follow that?

Mr. INGRAM. Do you follow what?

Mr. HENDERSON. Do you conform to paragraph 12?

Mr. INGRAM. Yes. I get the resale price, but I do give premiums.

Mr. HENDERSON. In other words, does Pennzoil have a resale price for the products you buy from them?

Mr. INGRAM. They send me bulletins and tell me what I have to sell at.

Mr. HENDERSON. And you follow them, except for the giving of premiums?

Mr. INGRAM. That's it.

Mr. HENDERSON. Do you regard that as conformance with the spirit of your contract?

Mr. INGRAM. Do I regard that in conformance? It is my business. I ought to be allowed to advertise as I so see fit. The others do. It is only a method of advertising, sir.

Mr. HENDERSON. But if you give a premium, it is a varying of the price.

Mr. INGRAM. I disagree with you.

Mr. AVILDSEN. What is the premium? What do you mean by the premium?

Mr. INGRAM. I give a coupon with each dollar purchase, and when they get so many coupons I give them a premium, one of any one of maybe 250 items.

Mr. AVILDSEN. What are some of them, for example?

Mr. INGRAM. For example, a Toastmaster.

Mr. HENDERSON. You don't agree that that is a change in the net price to the buyer?

Mr. INGRAM. I do not. Lowell Thomas doesn't.

Mr. HENDERSON. I don't now that Lowell Thomas is an authority on this particular item. What I want to get——

[1] "Exhibit No. 1235," appendix, p. 9224.

Mr. INGRAM (interposing). I set up a gallonage basis of advertising, the same as the major companies do. They figure they will spend so much for advertising. That is all I do, sir.

Mr. HENDERSON. I want to get this straight.

Mr. INGRAM. My advertising cost is approximately one-half cent per gallon.

Mr. HENDERSON. How many gallons of gas would you have to buy in order to get a Toastmaster?

Mr. INGRAM. Mister, it isn't by gallons, it is by dollar purchases.

Mr. HENDERSON. How many dollars, then?

Mr. INGRAM. $150 worth.

Mr. HENDERSON. So for $150 worth of gasoline, sold at the resale price stated by Pennzoil, you get the gasoline plus a Toastmaster. In your mind—understand I am not trying to make any invidious comparison on this; I want to get your feeling about this. You get $150 worth of gasoline, at resale price, plus something else, and you don't think that reduces the net cost of your gasoline?

Mr. INGRAM. May I ask this question? If I am wrong, correct me. Am I not allowed to do advertising myself?

Mr. HENDERSON. I am not questioning whether you are allowed to do advertising. You have a chip on your shoulder on this question. All I am trying to get is a simple answer to a question. If you want to say "No, I do not regard it as a reduction in price," that is all right. That would be your answer.

Mr. INGRAM. I do not regard it as a reduction in price. I regard it as a legitimate method of advertising.

Mr. AVILDSEN. Mr. Ingram, how much is this Toastmaster worth at retail?

Mr. INGRAM. The retail price of it is, I think, $22.75.

Mr. HENDERSON. I pass, Mr. Chairman.

Mr. AVILDSEN. You give a man a Toastmaster worth $22.75 if he buys $150 worth of gasoline?

Mr. INGRAM. It doesn't cost me that.

Mr. AVILDSEN. What does it cost you?

Mr. INGRAM. I don't think I should divulge those secrets. Those are business secrets that I shouldn't divulge.

Mr. AVILDSEN. If you don't wish to tell us, that is all right.

Mr. BERQUIST. May I ask if the second contract is a contract which arises under the Iowa plan?

Mr. INGRAM. We, in Ohio, as I understand it, have no Iowa plan, yet they tell us it is the same as the Iowa plan.

Mr. BERQUIST. You don't have any chain-store tax, but it is similar to the Iowa-plan contract?

Mr. INGRAM. Yes, sir; as I have taken it from the trade journals, it is.

Mr. BERQUIST. Then, if the retail price is reduced—say the retail price falls off a cent, who bears the burden of that decline, the oil-company supplier or the retailer or the jobber?

Mr. INGRAM. I took a portion of it.

Mr. BERQUIST. And who takes the other portion?

Mr. INGRAM. That depends entirely on the basis that they work it on. Sometimes—the last advance of half a cent, which took place on Saturday, the dealer did not get any benefit of that at all. But I

understand that I got a benefit, I think, of a quarter of a cent on my purchases.

Mr. Berquist. The dealer didn't get any benefit of the increase?

Mr. Ingram. That's it.

Mr. Berquist. When it was decreased, was his margin decreased?

Mr. Ingram. Yes, sir. That was in Canton. I don't know about the rest of the State.

Mr. Berquist. As an Iowa-plan dealer, then, he does assume a good bit of the risks of retail marketing under that system.

Mr. Ingram. I would say he did.

Mr. Berquist. Now before, under the old contract, if the price went down you still got a 6-cent margin to cover yourself on the retailer.

Mr. Ingram. To a certain point in there. It had a stop clause f. o. b. the factory. I think it had a stop clause of 6 cents in it, or 5 cents, whatever it was.

Mr. Berquist. What would you say if the price declined 1 cent. Would that have been in part or totally borne by the refiner-supplier?

Mr. Ingram. Based on the State market, it was. If it was based on the local-market structure, we took half of it.

Mr. O'Connell. Does Ohio have a resale price maintenance law, do you know?

Mr. Ingram. No, sir.

Mr. Henderson. I think the witness is incorrect in that. I think Ohio has a general resale price-maintenance law, a fair-trade law, does it not?

Mr. Ingram. That I can't tell you, sir. I don't know that.

Mr. Henderson. I am quite sure that some grocery products—branded grocery products—are sold under fair-trade laws.

Mr. Cox. Do you sell any unbranded gasoline?

Mr. Ingram. Yes, sir.

Mr. Cox. Of course as to that you don't have to maintain any retail price fixed by Pennzoil Co.

Mr. Ingram. No, sir.

Mr. Cox. You get it from Pennzoil?

Mr. Ingram. Yes, sir.

Mr. Avildsen. Has the Pennzoil Co. ever objected to your giving away these premiums?

Mr. Ingram. Gentlemen, that is kind of a funny question. Instead of objecting they have come in to see what my plan was and put it in operation at other places.

Mr. Avildsen. Then there is no effort on their part to control the resale price.

Mr. Ingram. They figure it is a method of advertising.

Mr. Avildsen. How many of your customers turn back these coupons for merchandies, what percentage?

Mr. Ingram. That I can't tell you; I haven't kept a record of it.

Acting Chairman Williams. This may be admitted.

(The contract and letter referred to were marked "Exhibit No. 1235" and are included in the appendix, on page 9224.)

Acting Chairman Williams. Proceed, Mr. Ingram.

Mr. Ingram. I offer exhibit F, which is numerous bulletins of price changes. There is one dated January 18, 1937, from the Penn-

zoil Oil Co., and signed by W. R. Birkmayr. [Reading from "Exhibit No. 1236":]

GENTLEMEN: Effective February 6, 1937, the price on gasoline in Ohio was advanced one-half cent per gallon. Your margin on Pennzip gasoline effective as of the same date is hereby increased from 2 to 2¼ cents below the undivided dealer price of such gasoline, or a margin to you at the present time of 5¾ cents. The new tank-wagon prices are as follows: Consumer tank wagon, Pennzip gasoline, 17 cents; undivided dealers, 14½ cents; divided dealers, 16 cents.

Your prices effective February 6, 1937 on this depressed market will be 8¼ cents on Pennzip gasoline, 9½ cents on Pennzip Ethyl gasoline, and 8 cents on 65-octane gasoline, delivered, exclusive of taxes.

We are very glad that advancing prices have given us an opportunity to restore part of the margin that was taken from you when the price in your area dropped below the State-wide structure.

This price is effective until further notice.

The letter is signed by Pennzoil Oil Co., W. R. Birkmayr.

You will note that they refer to nothing in there but tank wagon, but in the top paragraph they do set a resale value because they say at the present time my margin is 3¾ cents, and the only way I could make 5¾ cents would be off the retail price and not the tank wagon.

Mr. HENDERSON. Whose retail price?

Mr. INGRAM. The retail price in the city of Canton.

Mr. HENDERSON. Who sets that price?

Mr. INGRAM. Who sets the price in Canton? I would say the Standard Oil Co. of Ohio.

Mr. HENDERSON. Was that what the letter refers to?

Mr. INGRAM. In our area it dropped below the State-wide structure. It does not say Standard, but you ask me who sets the price, and I say Standard sets it.

Mr. HENDERSON. They expected you to compute your 5¾ cents on the basis——

Mr. INGRAM (interposing). Of Standard's price.

Mr. HENDERSON. And not on the tank-wagon price?

Mr. INGRAM. That is what the 5¾ cents would be. If I made 5¾ cents on tank wagon, I wouldn't have to be in the oil business long.

Mr. AVILDSEN. Mr. Ingram, how much of the gasoline you buy is sold at retail, and how much is sold to other dealers; approximately?

Mr. INGRAM. Frankly, at the present time I haven't got an outside dealer, except one, and that outside dealer happens to be my wife. She operates a station.

The reason for that is this. I can't afford to put in visible pumps—or rather computing pumps, build driveways and air compressors and so forth on a half a cent or a cent and a half, or whatever it might be, and it has been as low as a half a cent to the jobber.

Mr. AVILDSEN. Are you making money now on your retail business?

Mr. INGRAM. I am not.

Mr. AVILDSEN. Are you breaking even?

Mr. INGRAM. I would say that since the first of the year that is all I have been doing—without making any interest on my investment.

Acting Chairman WILLIAMS. All right, proceed. Do you offer that letter for the record?

Mr. INGRAM. That is one of them. I have several of them that will go with this.

(The memorandum referred to was marked "Exhibit No. 1236," and is included in the appendix, on p. 9227.)

Acting Chairman WILLIAMS. That is a letter addressed to you and signed by the Pennzoil Co?

Mr. INGRAM. That is right; dated February 16.

I will mark this exhibit F–2, June 12, 1933:

Branch Managers and Distributors, Ohio, from R. A. Browne, Ohio Marketing Policy.

Effective Wednesday morning, June 14, 1933, and until further advised. The Pennzoil Co. will put the following marketing policies into effect. It is expected that all branch managers and distributors will adhere absolutely to the program as here set forth and see that their dealers do the same.

The posted service-station price for Pennzip Gasoline will be 17½¢ per gallon; Pennzip Ethyl 20¢; on White Gasoline 15¾¢ per gallon.

The above prices will apply on all service station charge accounts, and be the basis from which commercial discounts will be figured.

A discount of 2¢ per gallon will be allowed from the above prices on all gasoline sold for cash at the pump.

Coupon books, where used, will be sold to all classes of consumers for cash only, and at face value. The coupons are redeemable at the cash discount price.

Margins to dealers on Pennzip and Pennzip Ethyl will be 3¢ per gallon; on White Gasoline 1½¢. These margins are under the service station cash price. Controlled accounts will be allowed a ½¢ per gallon greater margin on all grades; however, in no case must the total rental plus dealer's margin exceed the controlled dealer margins as stated above. In other words, if there are any accounts on which you are paying more than one-half cent rental, then the open dealer margin must be reduced to bring the account in line.

Tank car prices on Pennzip gasoline to our distributors will be 5½¢ per gallon under the cash service station price; on Ethyl gasoline, a 5½¢ spread will be allowed under the Ethyl cash price; White gasoline will be billed at 5¾¢ per gallon under the service station cash price for Pennzip gasoline.

Commercial tank wagon quantity discount contract customers will be established as follows,

and they go on and give quite a line of discounts on quantities of from 0 to 6,250 gallons and from 6,250 to 25,000, and from 25,000 up.

I offer that.

Acting Chairman WILLIAMS. In each case, if you will (and it will save time), will you give the date, the party to whom the communication is addressed, and by whom it is signed and how you received it. Did you receive this exhibit through the mail?

Mr. INGRAM. Yes, sir.

Acting Chairman WILLIAMS. It doesn't seem to be addressed directly to you, simply branch managers.

Mr. INGRAM. And distributors. That comes through the mail. They send a lot of mail that way.

Acting Chairman WILLIAMS. They send those to all the distributors?

Mr. INGRAM. Yes, sir.

Acting Chairman WILLIAMS. At least you got it as one of the distributors and it is signed by the representative of the Pennzoil Co.?

Mr. INGRAM. Yes, sir; it comes through the mail; yes, sir.

Acting Chairman WILLIAMS. That is admitted.

(The document referred to was marked "Exhibit No. 1237" and is included in the appendix on p. 9228.)

Mr. INGRAM. From The Pennzoil Co., Oil City, Pa., signed W. R. Birkmayr, dated July 12, 1933:

Post the following retail, tank wagon, and dealers prices, effective July 13th, 1933, at all service stations and bulk plants in the State of Ohio.

I offer that.

(The document referred to was marked "Exhibit No. 1238" and is included in the appendix on p. 9229.)

Mr. INGRAM. The Pennzoil Co., Oil City, Pa., July 12, 1933, signed W. R. Birkmayr, manager, gasoline division:

Post the following retail, tank wagon, and dealers prices.

(The document referred to was marked "Exhibit No. 1239" and is included in the appendix on p. 9230.)

Mr. O'CONNELL. Whom are these addressed to?

Mr. INGRAM. There is no addressing to them. It is simply a price bulletin that comes through every time a price is changed.

Mr. O'CONNELL. These are documents that you received from the Pennzoil Co.?

Mr. INGRAM. That is right.

Mr. COX. Are they mimeographed?

Mr. INGRAM. I don't know whether it is mimeographed or what they are; they are some kind of a printed bulletin.

From the Pennzoil Co., July 28, 1933, the same type of thing. That was signed W. R. Birkmayr.

(The document referred to was marked "Exhibit No. 1240" and is included in the appendix on p. 9230.)

Mr. INGRAM. The Pennzoil Co., August 8, 1933, signed W. R. Birkmayr.

(The document referred to was marked "Exhibit No. 1241" and is included in the appendix on p. 9231.)

Mr. INGRAM. September 1, 1933, signed W. R. Birkmayr, from the Pennzoil Co.

(The document referred to was marked "Exhibit No. 1242" and is included in the appendix on p. 9231.)

Mr. HENDERSON. Are these retail price lists?

Mr. INGRAM. Both retail and wholesale price lists. September 6, 1933, signed W. R. Birkmayr.

Mr. HENDERSON. Another price bulletin?

Mr. INGRAM. Yes, sir; these are all price bulletins referring to prices.

(The document referred to was marked "Exhibit No. 1243" and is included in the appendix on p. 9232.)

Mr. INGRAM. A letter from the Pennzoil Co. to branch managers and distributors regarding prices, the same thing with a retail price bulletin attached to it, signed R. A. Browne, sales director, Pennzoil Co.

The document referred to was marked "Exhibit No. 1244" and is included in the appendix on p. 9233.)

Mr. HENDERSON. Is there anything in the memoranda which suggests the basis upon which they have fixed their resale price?

Mr. INGRAM. "Service station, consumer tank wagon, divided dealer, undivided dealer."

Mr. HENDERSON. I mean how they arrived at the price they set in this bulletin.

Mr. INGRAM. How they arrive at it?

Mr. HENDERSON. Yes.

Mr. INGRAM. No; it just says "State-wide structure."

Mr. HENDERSON. What do you understand "State-wide structure" to be?

Mr. INGRAM. State-wide structure, the price that the Standard Oil Co. has posted in Cleveland, Ohio.

Mr. HENDERSON. Do you mean that the price in these bulletins sent to you as a distributor was the same as the price set by Standard Oil of Ohio in Cleveland?

Mr. INGRAM. My exhibit A or my contract there dated 1934 and running until 1936 definitely states that the price shall be that as posted by the Standard Oil Co. of Ohio for X-70 gasoline.[1]

Mr. HENDERSON. Yes; but some of these bulletins are 1933.

Mr. INGRAM. Yes.

Mr. HENDERSON. The ones you have just been introducing are 1933.

Mr. INGRAM. Some of them are 1933. This is 1934 now.

Mr. HENDERSON. Did you have a contract in 1933?

Mr. INGRAM. I did.

Mr. HENDERSON. Did it contain the same clause?

Mr. INGRAM. That I can't say; I couldn't find it or I would have brought it down.

Mr. COX. Mr. Ingram, here is one dated July 12, 1933, headed "The Pennzoil Co.,"[2] and it says, "Post the following retail, tank-wagon, and dealer's prices effective July 13," which was the next day. Did you change your prices on July 13?

Mr. INGRAM. Yes, sir.

Mr. COX. Do you know whether the Standard Oil Co. of Ohio changed its prices on the 13th?

Mr. INGRAM. That is when they did it.

Mr. COX. You are sure it didn't change its prices on the 12th, the day you got this?

Mr. INGRAM. No, sir; it never does. We are always notified approximately a day ahead of time of any price change taking effect by the Standard Oil Co. We are told that effective the next morning our price will be so-and-so, which will be the same price as the Standard Oil.

Mr. COX. Of course, this bulletin doesn't say anything about the Standard Oil Co.

Mr. INGRAM. No, sir.

Mr. COX. It just says that there will be a price change on the 13th of July.

Mr. INGRAM. Yes, sir.

Mr. COX. But it is your testimony that on the 13th of July the Standard Oil Co. did change its price.

Mr. INGRAM. That is right.

Mr. COX. And it posted the prices that are shown in this bulletin?

Mr. INGRAM. Yes, sir. We have never deviated.

Mr. HENDERSON. May I get that straight, Mr. Cox? I missed the first part of that. You said you are notified in advance about a change in price for Pennzoil which when it goes into effect is the same as the Standard Oil price

Mr. INGRAM. They generally either call me up, most always call me; they have an office in Canton, as well: "George, tomorrow the

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[1] "Exhibit No. 1231," appendix, p. 9221.
[2] "Exhibit No. 1239," appendix, p. 9230.

Standard's rate is the price, so much," and there may be a few comments and we might do a little cussing and discussing about it, depending on whether there is a raise or drop in the price, but our price will be the same as Standard's

Mr. HENDERSON. Is that the uniform practice?

Mr. INGRAM. That is the uniform practice.

Mr. HENDERSON. That is, you want us to understand that Pennzoil has some information in advance as to what Standard Oil is going to do on a certain day?

Mr. INGRAM. Well, evidently they must or they couldn't notify me a day ahead of time what they are going to do.

Mr. HENDERSON. And they do that practically every time?

Mr. INGRAM. That is right, sir.

Mr. HENDERSON. Have you ever been caught off base by a change in price of which you hadn't been notified?

Mr. INGRAM. Maybe only when I was out of town.

Mr. COX. What about this last price change on Saturday of last week? There was a price change, wasn't there?

Mr. INGRAM. Yes; there was a price change on Saturday of last week.

Mr. COX. When were you notified of that?

Mr. INGRAM. I was notified of that thing about 2 o'clock Friday afternoon. I ordered in four trains of gasoline.

Mr. HENDERSON. On the old price?

Mr. INGRAM. Yes, sir; or I wouldn't have ordered it.

Mr. COX. I am sorry I interrupted you.

Mr. HENDERSON. Was that last Friday?

Mr. INGRAM. Yes; October 6.

Mr. HENDERSON. Wasn't that the day the representative of the Standard Oil of Ohio was on the stand here explaining how retail prices are made? [1]

Mr. SNYDER. That was the 6th.

Mr. COX. Of course, that price announcement was published in the papers on Friday.

Mr. INGRAM. Friday night it was; yes, sir.

Mr. COX. Published in the papers Friday night and you knew it at 2 o'clock in the afternoon.

Mr. INGRAM. That is right.

Mr. HENDERSON. Do the Pennzoil people ever tell you how they happened to know what Standard was going to do?

Mr. INGRAM. Well, they told me of various meetings that had taken place in Cleveland, and so forth, where Mr. Harrison of the Sun Oil Co. of Detroit and someone from Pennzoil and someone from Texas and someone from one of the others would be up there and discussing this policy, and then the price generally changes a day or two after they tell me they have had one of those meetings.

That is all I know, that they tell me that they have these meetings.

Mr. HENDERSON. In Cleveland.

Mr. INGRAM. That is what they say, sir.

Acting Chairman WILLIAMS. What is the relationship, if any, between the Standard Oil and the Pennzoil?

Mr. INGRAM. Well, I have always been led to believe, or rather up until a short time ago, that Standard had some interest in Pennzoil

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[1] Sidney A. Swensrud, vice president, whose testimony appears in Hearings, Part 15.

through South Penn, which is their company. It has always been my opinion—purely my opinion, I don't know the inside operations of Pennzoil—that it is some way hooked up with Standard Oil Co.

Acting Chairman WILLIAMS. During the years that you have covered by these bulletins here, how much has the price fluctuated? Have you got that in your mind, the limits of the fluctuation, the minimum and the maximum price of retail oil?

Mr. INGRAM. That I can't tell you, sir.

Acting Chairman WILLIAMS. You have been in the business, you know about how it has fluctuated say for the last 4 or 5 years.

Mr. INGRAM. In the last 4 years, or since the N. R. A.—N. R. A. was the greatest thing for the little-business man and the little oilman because it did give them a fair margin to work on and gave them a fair principle.

Acting Chairman WILLIAMS. Since the N. R. A.

Mr. INGRAM. Since the N. R. A. our margin has been gradually cut. Our price has been going down and down. We got approximately 20 cents around N. R. A. times; today in Canton we are getting 15 cents, last week it was 14½ cents retail price.

Acting Chairman WILLIAMS. The retail price has been consistently downward, has it?

Mr. INGRAM. Yes, sir.

Acting Chairman WILLIAMS. There have been times——

Mr. INGRAM (interposing). Oh, there have been times when it has jumped up for a few months.

Acting Chairman WILLIAMS. Just last week the Standard Oil raised it a half a cent, didn't they?

Mr. INGRAM. In Canton; yes, sir.

Acting Chairman WILLIAMS. Was that general?

Mr. INGRAM. They raised it all over the State of Ohio, but in Cleveland they retail their gasoline at their company-owned stations which they maintain as an established retail outlet where they own and operate them by pay roll, an 18-cent price; the gasoline that comes to Canton is sent down by pipe line and sells in Canton today for 15 cents. There certainly is something wrong when the stuff is made in Cleveland and they get 3 cents a gallon more for it than they do in Canton.

Acting Chairman WILLIAMS. Do you know why that is? Have you any explanation for that?

Mr. INGRAM. Well, we have a couple of so-called tank-car stations. One of them is the Railway Oil Stores, which does an extreme volume of business. I am told pretty nearly monthly by various oil men what their total gallonage is—I don't know it myself, I don't care to know it, I am trying to take care of my own business instead of the other fellow's—that they are the fault of the market in Canton, one station doing around 100,000 gallons of gasoline a month.

Acting Chairman WILLIAMS. Do you mean that the price is lower in Canton than it is anywhere else?

Mr. INGRAM. The price is lower in Canton than it is right outside of the city limits. I have one station that is outside of the city limits and the price is a cent different there.

Acting Chairman WILLIAMS. Same gas?

Mr. INGRAM. Same gas from the same source. In Cleveland it is the same gasoline and the gasoline that comes to Canton by the Stand-

ard Oil Co. is made in Cleveland, it retails in Cleveland at 18 cents and it sells in Canton for 15 cents and half of the major oil companies get their gasoline from the Standard pipe line in Canton.

Acting Chairman WILLIAMS. Then the retail price doesn't follow the Standard Oil?

Mr. INGRAM. It doesn't follow the Standard Oil?

Acting Chairman WILLIAMS. Does it? Don't they make a price? Isn't their price general or is it?

Mr. INGRAM. Oh, no, they make the price for the districts.

Acting Chairman WILLIAMS. They make it different in different districts—I mean in the same territory, in Ohio, for instance?

Mr. INGRAM. In Ohio they have districts, yes, sir, that they change the prices in.

Acting Chairman WILLIAMS. And how much does that vary?

Mr. INGRAM. Sir?

Acting Chairman WILLIAMS. Does that vary as much as the 3 cents that you have indicated here?

Mr. INGRAM. Yes, sir.

Acting Chairman WILLIAMS. You mean now that the Standard Oil itself has a retail price, fixes a retail price of gasoline at a price varying as much as 3 cents in the State of Ohio in different localities?

Mr. INGRAM. Yes, sir.

Mr. AVILDSEN. What basis have you for saying that they fix the price in Canton? They don't actually own and operate a key station in Canton, do they?

Mr. INGRAM. Three, thank you.

Mr. AVILDSEN. The Standard Oil Co. operates three wholly owned key stations in Canton.

Mr. INGRAM. Yes, sir; superstations.

Mr. AVILDSEN. They sell at 15 cents?

Mr. INGRAM. Yes, sir.

Mr. HENDERSON. Is that due to the intensity of competition in Canton from other majors?

Mr. INGRAM. They are key stations, sir, and are approximately 2 miles, I would say, from this tank-car station which their various agents, and so forth, have told me are the source of trouble.

Mr. HENDERSON. I didn't quite get that. What about the tank-car?

Mr. INGRAM. Railway Oil Stores maintain a tank-car station on what we call Cherry Street—Fifth and Cherry. The Standard Oil Co.'s key stations are approximately——

Mr. HENDERSON (interposing). Who owns this station?

Mr. INGRAM. Railway Oil Stores.

Mr. HENDERSON. What is Railway Oil Stores? Is that a major?

Mr. INGRAM. No, sir.

Mr. HENDERSON. That is an independent?

Mr. INGRAM. Yes, sir.

Mr. HENDERSON. Do you know where they get their gas mainly?

Mr. INGRAM. Well, if you take one of the Ohio black books, it will probably tell you where every car you got during several years came from.

Mr. HENDERSON. What do you mean, black book?

Mr. INGRAM. Black book. Didn't you ever hear of the Ohio black book?

Mr. HENDERSON. I am supposed to be asking the questions. You are to give the answer. What is the black book?

Mr. INGRAM. Well, I am getting a little ahead of my exhibits here.

Acting Chairman WILLIAMS. Well, we will take that up later.

Mr. COX. I think you had better straighten out the record as to the question the chairman asked about the relation between the Pennzoil Co. and some other major oil companies. You answered generally, I think, that it was your opinion there was some relation between the Pennzoil Co. and the Standard Co.; you didn't mean the Standard of Ohio, did you?

Mr. INGRAM. I mean the Standard foundations, or whatever they are called, which is the controlling factor.

Mr. COX. What company particularly did you mean? Did you mean the Standard of Ohio?

Mr. INGRAM. No, sir. I can't say. I told you that my opinion was that they had a relation with someone of the Standard group. I don't know what group it was.

Mr. COX. You don't mean the Standard of Ohio?

Mr. INGRAM. No, sir.

Mr. HENDERSON. Mr. Cox, does the staff have information as to the relationship between South Penn and any of the Standard group? Is it related to Standard Oil of New Jersey?

Mr. BERQUIST. The South Penn Oil Co. has a fifty-two and a fraction percent interest in the Pennzoil Co. and the Tidewater Associated has between a 15 and 17 percent interest in South Penn Co. The South Penn Co. was one of the former Standard Oil group.

Mr. HENDERSON. What is Tidewater?

Mr. BERQUIST. Tidewater Association is one of the major groups and operates in Texas and on the Pacific coast.

Mr. COX. The answer then, as far as we know, is that there is no stock relationship between Tidewater and any company of the Standard Oil.

Mr. BERQUIST. No.

Mr. INGRAM. Another price bulletin, dated October 13, 1934, no signature, but just typewritten, Pennzoil Co., Oil City, October 13. 1934.

Acting Chairman WILLIAMS. Where did you get it?

Mr. INGRAM. It comes through the mail to me from Oil City.

Acting Chairman WILLIAMS. Is there anything peculiar about it and different from the rest of them?

Mr. INGRAM. Except that it is a reduction in price it follows the same form.

(The bulletin referred to was marked "Exhibit No. 1245" and is included in the appendix on p. 9234.)

Mr. INGRAM. Another one dated November 26, 1934.

Acting Chairman WILLIAMS. I suggest now to expedite the matter if those are all the same general form unless there are some that have some special difference that you want to comment on, that they all be introduced together providing they are all identified.

(The bulletin referred to was marked "Exhibit No. 1246" and is included in the appendix on p. 9234.)

Mr. INGRAM. Some have something special.

Mr. COX. Why don't you pick out some that have some special significance and tell us about them?

Acting Chairman WILLIAMS. I understand you are offering all these as one exhibit and they may all go in together if they are properly identified, and I see no reason to take any particular time with them if they are all substantially the same.

Mr. INGRAM. Do you want me to read the dates of them, or is it necessary?

Acting Chairman WILLIAMS. I think not. They are all signed by representatives of the Pennzoil Co., and addressed to you, or received by you through the mail.

Mr. INGRAM. Yes, sir. Not all of them are signed, some of them are just typewritten or rather printed on the bottom, Pennzoil Co., Oil City, April 13, 1935.

Acting Chairman WILLIAMS. Is it their stationery or just blank?

(The witness held up the document.)

Acting Chairman WILLIAMS. I can't see it from here. They, I think, may be admitted as one exhibit.

The letters referred to were marked "Exhibit No. 1247" and are included in the appendix on p. 9235.)

Mr. COX. Do you have any of those price announcements that relate to the price after the contract changes so the price was no longer stated to be based on Standard Oil price? That was sometime in '36, wasn't it?

Acting Chairman WILLIAMS. Did you understand there was a question asked you?

Mr. COX. I asked you if you had some price announcements there that related to the time after the change in the contract which was made, I believe, in 1936, according to your earlier testimony.

Here is one. I will ask you about one you have already put in, Mr. Ingram. Here is a price bulletin on the letterhead of the Pennzoil Oil Co., Oil City, Pa.; no date on it, but it bears the statement at the top, "Prices effective March 15, 1937, Ohio State-wide structure,"[1] and then it contains consumer tank-wagon prices, divided dealer prices, undivided dealer prices. It contains a statement on the bottom, "Effective March 15, 1937, gasoline declined 1¢, making retail price 19¢, taxes included."

Do you recollect when you received that?

Mr. INGRAM. I would say the morning of the 15th.

Mr. COX. Did the prices in Canton change on the 15th in accordance with that?

Mr. INGRAM. Yes, sir.

Mr. COX. Did the Standard Oil Co. of Ohio's change?

Mr. INGRAM. Yes, sir.

Mr. COX. And other major oil companies' prices?

Mr. INGRAM. Yes, sir.

I think I know what you are asking for: I think I have it in front of me here, sir, if I may read it, a letter dated November 17, 1934, to all branch managers——

Acting Chairman WILLIAMS (interposing). No; that wouldn't be it.

Mr. COX. That goes back before the time I am interested in. I am interested in the time after that new contract that you told us about a little earlier this morning.

[1] Included in "Exhibit No. 1247."

Mr. INGRAM. You mean 1936?

Mr. COX. That is right.

Mr. INGRAM. You are getting me ahead of some of my exhibits.

Mr. COX. I thought you had all your price announcements there together, but I may have misunderstood you.

Mr. INGRAM. I did, but I had them from 1933 on through; see?

Mr. COX. I see. Do you have any there now for any period subsequent to '36 or in '36.

Mr. INGRAM. I have one dated August 25, 1939, but this is my exhibit G that I intended to present.

Mr. COX. All right; you go ahead then.

Acting Chairman WILLIAMS. Have you all your exhibits presented there under what you denominated exhibit F?

Mr. INGRAM. No, sir; I have not. I have three here to put in yet, which I wanted to read.

NOVEMBER 17, 1934.

To Ohio Branch Managers and Distributors:

Price Structure for the State of Ohio

This is to advise you of a new price schedule which we will put into effect on November 26th. You will notify all your dealers.

The matter of dealer and distributor margins is recognized as one of the most important problems in the marketing branch of our industry, and it is generally recognized that these margins are too wide and will have to be narrowed if the refiner, distributor, and dealer are to protect themselves against the inroads of price cutters.

The Stabilization Committee of Region No. 3, under date of October 27th, recommended for this region a reduction in dealer margins to 3½¢ on Ethyl and house brand. * * *

An ideal margin structure would seem to be one in which refiner, distributor, and dealer shared in good as well as bad periods, and which had sufficient flexibility to meet competition as it occurred. Both dealers and distributors realize that one of the difficulties in meeting competition has been the burden of a rigid and inflexible margin. We are accordingly adopting a sliding scale of margins varying with the spread between the base tank-car price and the local service-station price.

The Standard Oil Company of Ohio's tank-car price for above 65 octane gasoline is based upon the low of the Oklahoma refinery market for 63–70 octane gasoline, as published in Platt's Oilgram, plus 2½¢. The difference to the nearest ½¢ between that base price, to wit: The Standard Oil Company's posted tank-car price in Platt's Oilgram, and the local service-station price is the total spread upon which the dealer and distributor margins will be based.

Mr. HENDERSON. That stabilization committee was part of the code organization, was it not?

Mr. INGRAM. I imagine it was, sir; I am not sure.

Mr. COX. Was that letter received by you at the time when your contract still contained the provision that the price was to be based on Standard Oil Co.'s posted price; is that correct?

Mr. INGRAM. The 6-cent margin; yes, sir. They changed the structure in here.

Now attached to it is this: Pennzoil Oil Co., November 17, printed on the bottom, R. A. Browne:

On this basis, effective November 26th, our margins on Pennzip for distributors and undivided dealer accounts will be as follows.

And then it goes down and shows when the spread is 6½ cents to the undivided, it is 4 cents to the divided dealers; when it is 6 cents, it is

3¾ cents; when it is 5 cents, it will be 3¼ cents; and when it is 4½ cents, it is 3 cents.

The margin to undivided dealer accounts for Pennzip Ethyl will be the same as above. * * *

Mr. Cox. May I see that? This is dated November 17, 1934; both pages. Do you recall about what time you got it through the mail?

Mr. INGRAM. I probably got it the next day. They send it out, and I receive my mail the next morning.

Mr. Cox. And that refers to a price change which is going into effect on November 26, about 9 days later. Did the price change on that date, November 26; do you recollect?

Mr. INGRAM. I imagine it did, sir; I don't recollect directly. If that is what it said, that is what happened.

I have a letter from the Pennzoil Oil Co., November 23, 1934, signed R. A. Browne:

All Distributors in Ohio.

GENTLEMEN: The contract under which we are supplying you with your gasoline provides, under "Minimum Price," specific net-back figures at our refinery. Due to the general gasoline price structure, we have not been enforcing this clause in the contract, with the result that our company has been standing heavy losses in connection with the manufacture and sale of its gasoline.

In view of the new marketing program, which we are putting into effect on the morning of November 26th in Ohio, this is to advise you that, effective on that date and until further advised, or the retail price adjusts itself to a point where the minimum clause would not be operative, it will be necessary for us to accept all orders at a price which will absorb a portion of the loss we have been sustaining.

This price, however, at no time will be less than the price which will be charged to distributors under the new distributor contract, which will become effective and written on and after November 26th. Copy of this new contract form was mailed you on November 17th.

We regret the general conditions which make this step on our part imperative, and we look for full cooperation on your part in immediately putting into effect the full program as scheduled for November 26th. We believe that eventually this will work to the benefit of all concerned.

Now I have a price-change bulletin here, Pennzoil Oil Co.; no signature on it:

NOVEMBER 17, 1934.

To Pennzoil Dealers:

Due to the disorganized price conditions in the retailing of gasoline, effective November 26th, and until further notice, we propose to place our dealers on a margin based on the difference between the tank-car price, as posted by the Standard Oil Company of Ohio, and our posted service station price.

The difference between these two prices at the present time is 5½¢, which will allow us to give the undivided dealer 3½¢ and the divided dealer 3¢.

Under this method the dealer's margin will be increased as the spread between tank-car and service-station price increases, and will be automatically decreased where this spread is reduced either in depressed price areas or for other causes.

We believe that the policy covered by this revised price schedule is necessary to protect the interest of ourselves as well as our retail dealers, and believe that our dealers will see the fairness of the policy.

Mr. Cox. Are those all your exhibit F?

Mr. INGRAM. Yes.

Mr. Cox. I want to be sure what your testimony is as to the period of 1936. Is it a fact that after 1936 you still received these notifications of price changes in advance of the date on which they became effective?

Mr. INGRAM. Yes, sir; either by telephone or mail.

Mr. COX. And then on the day on which they became effective the Standard Oil of Ohio, as well as the Pennzoil Co., would change its prices on that date?

Mr. INGRAM. Correct, sir.

Mr. COX. And the other major oil companies changed their prices also; is that correct?

Mr. INGRAM. Yes, sir.

Mr. COX. Has that continued up to the present time?

Mr. INGRAM. Yes, sir; it did Saturday when the price changed.

Acting Chairman WILLIAMS. Now for the record these various exhibits that have been put in under what have been designated as exhibit F should be marked 1, 2, 3, and so on.

The CLERK. The others have been numbered consecutively. They should have been introduced as one exhibit.

Acting Chairman WILLIAMS. That was what I had in mind. They will be accepted for the record. You can decide the manner they will go in.

(The documents referred to were marked "Exhibit No. 1248" and are included in the appendix on p. 9237.)

Mr. INGRAM. But he won't change my letters so I don't get mixed up here?

Acting Chairman WILLIAMS. You have put in all the letters you have on that subject, haven't you?

Mr. INGRAM. I have. My exhibits are set up as A, B, C, D, and so forth.

Acting Chairman WILLIAMS. They will all be exhibits designated by different numbers.

The CLERK. All exhibits admitted to the record are numbered consecutively, irrespective of how you identify them. After being set in type yours will be returned to you if you wish.[1]

Mr. INGRAM. I offer as exhibit G a price-change bulletin which I received in an envelope, the name Pennzoil Oil Co. on it, on the morning of August 26.

Acting Chairman WILLIAMS. What year?

Mr. INGRAM. 1939.

This is a mimeographed bulletin headed "The Standard Oil Co. (an Ohio corporation). A. A. Stambaugh, vice president." [Reading from "Exhibit No. 1249:]

To Division Managers:

In connection with our Motor Gasoline Price Structure previously announced, kindly note the following changes:

Stark County, City of Canton:

Change from: Tank Wagon Price Exception No. 2.

Change to: Tank Wagon Price Exception No. 3.

Acting Chairman WILLIAMS. Right there, before you go any further, what does that mean? It doesn't mean anything to me.

Mr. INGRAM. And it didn't to me until somebody put some pencil notations on here before it was mailed to me by the Pennzoil Co., which says the tank-wagon price exception No. 2 is 13 cents, and tank-wagon price exception No. 3 is 12½ cents.

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[1] The exhibits submitted by Mr. Ingram were returned to him; the Committee has no copies of them in its files.

Mr. Cox. Does it mean that there was a change in your price? Does that indicate to you there was a change in your price?

Mr. INGRAM. There was a change in my price; yes, sir.

Mr. Cox. What was that change?

Mr. INGRAM. The tank-wagon price at that time was 13 cents, and it was changed to 12½ cents.

Acting Chairman WILLIAMS. Who does the exception part of it mean? How did you know it applied to you?

Mr. INGRAM. Well, this was mailed to me and the price went down. And it was mailed to me by the Pennzoil Co.

Acting Chairman WILLIAMS. Well, it seems to me that it is a question of whether you come under exception 2 or 3. As I say, that doesn't mean anything to me at all, as to what exception 2 or 3 is.

Mr. INGRAM. It says "Change from tank-wagon price exception No. 2 to tank-wagon price exception No. 3."

Now, from what I understand, instead of designating it as to prices any more, they have certain numbers. The price is 12 cents in a town or it is 15 cents in a town, or it is something else. I think I can clarify that by going a little further into it. It says:

> Tank Wagon Price Exception No. 3.
> Prices to Consumers (inclusive of tax).

and

> Prices to Resellers & Agents (inclusive of tax).

Consumers:
- Sohio Supreme, 17.5 cents.
- Sohio X–70, 15.5 cents.
- Renown, 15.5 cents.

Agents:
- Sohio Supreme, 14.0 cents.
- Sohio X–70, 12.5 cents.
- Renown, 12.5 cents.

Divided accounts:
- Sohio Supreme, 14.5 cents.
- Sohio X–70, 13.0 cents.
- Renown, 13.0 cents.

Mr. HENDERSON. What do you propose to show by this particular exhibit?

Mr. INGRAM. To show that it is Standard Oil Co. that sets the price in Ohio, and that is the price that you have got to follow.

Mr. HENDERSON. Do you mean that this particular bulletin is a Standard Oil of Ohio bulletin, and was sent to you by Pennzoil?

Mr. INGRAM. Yes, sir; that is what I mean.

Mr. HENDERSON. Was there any accompanying letter telling you that that was to be your price?

Mr. INGRAM. No, sir; but I was called up the day before and told the price had changed to that. We have been receiving this type of bulletin for quite some time, from Pennzoil, every time a price change takes place.

Mr. HENDERSON. And this time, in August of this year, you received a bulletin with the heading of "Standard Oil of Ohio." Was that the first time a Standard Oil of Ohio bulletin was sent you?

Mr. INGRAM. No; I had received several, but I hadn't bothered to save them. It so happened that this one came in and I saved it.

Mr. HENDERSON. Were you told by the Pennzoil representative in Canton, each of the other times you got them, that that was to be your tank-wagon price?

Mr. INGRAM. Yes, sir. We are told what our tank-wagon price is.

Mr. HENDERSON. I mean, were you told after you received this kind of bulletin?

Mr. INGRAM. Yes.

Mr. HENDERSON. So what you are attempting to show is that Pennzoil doesn't send you its bulletin now but sends you a bulletin by the Standard Oil of Ohio. Then the local representative calls you by phone and tells you that the price is going to be changed in conformity with the bulletin you have received?

Mr. INGRAM. That is correct, sir.

Mr. COX. Do you always get these before the price is changed? Is that right?

Mr. INGRAM. This generally arrives the morning the price changes.

Mr. HENDERSON. Has any explanation been given to you by any representative of Pennzoil concerning why they are using the Standard of Ohio? Is it a matter of convenience?

Mr. INGRAM. Well, if the Pennzoil didn't probably follow the price of Standard of Ohio maybe the price would be lower yet.

Mr. COX. Did they ever explain to you how they happened to get the price bulletins of the Standard Oil Co. of Ohio before the prices changed?

Mr. INGRAM. No.

Mr. HENDERSON. You got that in the mail, so it is evident that the Pennzoil Co. at headquarters had it before the change was posted by Standard Oil.

Mr. INGRAM. It must have. It is dated August 25, and I got it, I think, August 26.

Mr. COX. When did the price change?

Mr. INGRAM. August 26.

Mr. COX. You said you received other bulletins like this, Standard Oil bulletins?

Mr. INGRAM. Yes, sir; there is probably one at home now of the change that took place Saturday. I wasn't there to get it.

Acting Chairman WILLIAMS. All right; proceed.

Mr. INGRAM. I offer that.

(The memorandum bulletin referred to was marked "Exhibit No. 1249" and is included in the appendix on p. 9239.)

Mr. HENDERSON. To make this clear, those pencil notations were on there when you got it?

Mr. INGRAM. Yes, sir.

Mr. HENDERSON. Were they on the other ones you received?

Mr. INGRAM. Yes, sir. Otherwise I wouldn't know what the exceptions meant. I have no code to find that out.

Mr. COX. I think perhaps someone had better read into the record the pencil notes he is referring to, because I see a pencil note on the corner that is yours.

Acting Chairman WILLIAMS. The pencil note you are referring to is the figure 13 occurring after the line which states "Change from tank-wagon price exception No. 2." Following that is a pencil notation "13." That is the one you are referring to.

And immediately below that, in the next line, following the words "Exception No. 3," there is a pencil notation of "12½."

Mr. INGRAM. Then down below there is some more.

Acting Chairman WILLIAMS. Then further down, under the general subject of "Service stations," and following "Exception No. 2" is a pencil marking of "16," and in the next line, following the words "Exception No. 5," a notation of "14½." Those are the figures you refer to?

Mr. INGRAM. Yes, sir.

Mr. Cox. These telephone calls you said you received—do they come from someone in Canton, or do they come from Oil City?

Mr. INGRAM. Pennzoil has a division office in Canton, therefore I handle practically all of my business through the Canton office, except mail such as this, invoices, and so forth, come from the general office at Oil City.

Mr. Cox. Then these telephone calls come from Canton?

Mr. INGRAM. That's it, either Mr. Cavanaugh himself or one of the girls in the office, or somebody, calls up, always a day ahead of time, when a price changes, to notify us what has happened.

Mr. Cox. And when they call you up do they say they are going to change the price, or do they say Standard Oil Co. of Ohio is going to change?

Mr. INGRAM. They generally tell us, "Standard of Ohio is changing tomorrow."

Acting Chairman WILLIAMS. You may proceed with exhibit H, I believe it is.

Mr. INGRAM. Exhibit H is a series of postal cards which I have received through the mail. I will read them one by one as they come through.

Acting Chairman WILLIAMS. Are they all generally the same?

Mr. INGRAM. They are all different. Every postal card is different. It has been over a period of time.

Mr. Cox. Perhaps, before you read those, you might tell us what they are, so we will know something about them.

Mr. INGRAM. These postal cards are notices sent out by what is know as the Stark County Gasoline Retailers' Association. The Stark County Gasoline Retailers' Association is principally composed of nothing but what is known as lease and agency members, meaning by that practically all the boys that belong to this association, outside of probably their clothes on their back, that is all they own, and maybe a gallon or two of gasoline in the tanks. The companies own the buildings and everything else and dictate the policies and try to rile them up by various suggestions of how to get rid of their competition. They are the ones of this association.

Mr. Cox. They sell the products of major companies?

Mr. INGRAM. Principally.

Mr. Cox. Principally?

Mr. INGRAM. They have maybe a few that don't—that is, a few members. I don't know their membership, but I know a good many of the heads of it, and every one of them are selling the products of major oil companies.

Mr. BERQUIST. Are they lessees of major oil companies, most of them?

Mr. INGRAM. Well, the companies own the stations and they lease the stations to them.

Mr. Berquist. The major companies own them?

Mr. Ingram. Yes, sir.

Mr. Cox. How long has this association been in existence?

Mr. Ingram. That I can't tell you. I imagine for the last 3 years, or thereabouts.

Mr. Cox. Did it exist before the adoption of the Iowa plan in Ohio?

Mr. Ingram. Well, we are not supposed to have an Iowa plan, but—no, sir.

Mr. Cox. I will put the question this way. Did it exist before the major oil companies began to adopt or follow the plan of leasing the stations instead of owning them?

Mr. Ingram. No; it's only been within a couple of years.

Mr. Cox. I don't think it is necessary, myself, for you to read all those postal cards.

Mr. Ingram. Each one of them is different and has a different saying on it, sir, and that is why I would like to read them.

Acting Chairman Williams. Can't you tell us what they are without reading them all?

Mr. Ingram. These postal cards suggest the retail price by which you must sell in Canton, and if you don't follow the suggested retail price you won't have any hoses on your pumps. I got up one morning and every one of mine was cut off. They tried to raise the price above that of the Standard one time, or tried to get a cent a gallon more. Some of them today are getting a cent a gallon more, back in Canton, than the Standard does.

But what I want to show by these postal cards, and then go to my next exhibit, "I," is that there is definitely a hook-up between the Standard Oil Co. and this group. I would like to be able to read these cards.

Acting Chairman Williams. Well, I have no objection myself to your reading them, but it seems to me it is rather prolonging the hearing here. If you can tell us what they are, substantially——

Mr. Ingram (interposing). All right, I will read the one I received on October 7:

> Effective this date, October 7, 1939, the price of gasoline will advance from tank wagon to you; it is suggested that the retail price be posted at 16¢ for regular and 18¢ for high-test. It is also suggested and requested that all circus price signs be removed at once. Let us do something for ourselves without being forced to it.

Mr. Cox. What kind of price signs?

Mr. Ingram. Circus price signs.

Mr. Cox. What is a circus price sign?

Mr. Ingram. Well, when this war started in Canton, the boys tried to outdo each other in building price signs larger than one another, more or less to let the public know that they were selling gasoline at less than in other parts of the State.

Acting Chairman Williams. Well, now, that is the purpose of those cards, an effort to try to raise—to maintain the price, or raise the retail price.

Mr. Chantland. Didn't you say something about being cut off some mornings?

Mr. Ingram. My hoses being cut off; yes, sir.

Mr. CHANTLAND. What do you mean by that?

Mr. INGRAM. Well, the dealers' association called me up. I think the regular price for Standard at that particular time was something like 17 cents, and they wanted to get 18 cents, and I refused to go along with them, or enter into any basis by which they might set the price. I was going to follow along the price at what the Standard was selling at, because I didn't think I could sell it at more than they could sell it at, and I came down and I didn't have any hose on my pumps the next morning.

Mr. CHANTLAND. Do you mean they were physically cut off?

Mr. INGRAM. Yes, sir.

Mr. COX. You don't know who did that?

Mr. INGRAM. They told me it would be just too bad. I think we could show back here in Canton that that did take place, because I went to the prosecuting attorney and had the heads of that association brought in, and they more or less scared them out of the idea of bothering me there any further.

That is exhibit H.

Mr. COX. Do you know whether or not all members of that association charge the prices which they suggest on those cards?

Mr. INGRAM. They did for quite a spell, but since the recent price war went into effect in Canton some of them deviated from it.

Acting Chairman WILLIAMS. All right; those are all cards addressed to you, and signed?

Mr. INGRAM. No signature. They came through the mail. Some of them have a typewritten signature.

Acting Chairman WILLIAMS. How do you know, then, where they came from?

Mr. INGRAM. It says "Gasoline Dealers' Association" on some of them.

Acting Chairman WILLIAMS. Let me see them.

Mr. CHANTLAND. Do you know of your own knowledge, quite apart from these post cards, that this association is accustomed to sending out these post cards?

Mr. INGRAM. Yes, sir. Some of them are signed by the association.

Acting Chairman WILLIAMS. Do you know who R. G. Schimke, secretary, is?

Mr. INGRAM. He is secretary of the Stark County Dealers' Association.

Acting Chairman WILLIAMS. You know that yourself?

Mr. INGRAM. Yes, sir.

Acting Chairman WILLIAMS. I think those signed by him, as representing the association, are admissible.

Mr. COX. I would like to suggest, as to the ones that are not signed, that they might be admitted for the sole purpose of showing that Mr. Ingram received them, and not as proof of the fact that they were sent by this association. I think they are probably strictly admissible for that limited purpose.

Mr. INGRAM. May I ask this question: Are all of them typewritten, or are some of them written? We might be able to tell by that who sent them.

Acting Chairman WILLIAMS. They are all typewritten. They may be admitted for what they are worth, because they are signed, prac-

tically all of them, by the secretary of the association, whom you know to be the secretary.

Mr. INGRAM. Yes, sir.

(The post cards referred to were marked "Exhibit No. 1250" and are included in the appendix on p. 9240.)

Mr. INGRAM. All right, my exhibit I.

These are various newspaper clippings. I will read the first one. [Reading from "Exhibit No. 1251":]

> Independent gasoline dealers of the Canton area discussed the retail-price situation at a meeting Tuesday night in Keefer hall, but there was no definite action.
>
> M. M. Malloy, president, said that negotiations were held with the Standard Oil Co. in an effort to get a uniform price throughout the county, but that nothing had been accomplished. At present the retail price of gasoline is 15 cents in Canton and 16 cents outside the city.
>
> Independent dealers have protested the action of producers in cutting a cent a gallon off their margin of profit.

Acting Chairman WILLIAMS. Let me see those. Are they all along the same line?

Mr. INGRAM. They are along the same line, sir.

Acting Chairman WILLIAMS. Just pass them up here, will you?

Mr. COX. What is your purpose in offering those?

Mr. INGRAM. My purpose in offering those is to show that the dealers' association do work with the major oil companies in regards to price; that they have held meetings with one another in regard to price.

Mr. COX. These clippings don't go beyond showing that they have had meetings, do they? There is nothing in there about their working together in any other way?

Mr. INGRAM. No, sir.

Acting Chairman WILLIAMS. I think they may be admitted, as we commonly say, for what they are worth.

(The newspaper clippings referred to were marked "Exhibit No. 1251" and are included in the appendix on p. 9241.)

Mr. INGRAM. Exhibit J is a copy of a case in Stark County, Railway Oil Stores, Inc., an Ohio corporation, 522 Cherry Avenue NE., Canton, Ohio, plaintiff, against—and then it lists a series of names, including the Stark County Gasoline Dealers' Association.

Mr. COX. Before you go on, is that a copy of a pleading of some kind?

Mr. INGRAM. This is a copy of a pleading of the injunction that had been issued, and its finally being made permanent against this association and these various defendants on here, who are lessees.

Mr. COX. What court does that purport to be in?

Mr. INGRAM. In the court of common pleas, case No. 79849.

Acting Chairman WILLIAMS. Has it been finally determined?

Mr. INGRAM. It has.

Acting Chairman WILLIAMS. No appeal pending?

Mr. INGRAM. Not that I know of, sir. There has been a permanent injunction issued.

Acting Chairman WILLIAMS. When? (No response.)

Mr. COX. Where did you get this?

Mr. INGRAM. Where did I get it?

Mr. COX. Yes.

Mr. INGRAM. A copy of the records in the common pleas court.

Mr. Cox. Did you have the copy made?

Mr. Ingram. Did I have the copy made? No, sir; I borrowed it from the attorney that prepared it, or rather got it from the attorney that prepared it.

Mr. Cox. It consists of a petition, a temporary restraining order, and a final injunction.

Acting Chairman Williams. Is it certified?

Mr. Cox. It is not certified. It appears to be simply a carbon copy.

Acting Chairman Williams. Are you familiar with this proceeding in this court about which you are talking? Were you a witness or present during the hearing?

Mr. Ingram. I was not. What I want to bring out in regard to this case, I want to also attach this newspaper ad to it, which is self-explanatory. It is that at the time this was happening at the Red Head gas station I had at least 25 telephone calls, either at my office or my home, telling me I was next unless I discontinued the premiums.

Acting Chairman Williams. What is the purpose of this suit, just in a few words?

Mr. Ingram. The purpose of that suit is that they tried to compel the Railway Oil Stores to raise their price of gasoline 1 cent, and if they didn't, the price would go down, which it later did.

Mr. Cox. How did they try to compel them?

Mr. Ingram. Well, they drove into the station with twenties, fifties, and hundred-dollar bills, and bought a gallon of gasoline, blocked the driveways by demanding that they have their windshields cleaned, and they had a gang of various station attendants, several of them I identified. They either operated Texaco stations or Standard stations, or Shell stations, and, in general, blocked this place so that the average public could not get into it for a period of 2 days.

Mr. Cox. Were those the acts complained of in this suit?

Mr. Ingram. Those are the acts complained of in that petition.

Acting Chairman Williams. Who brought the suit? In general, who are they?

Mr. Ingram. The Railway Oil Stores are a competitor of mine.

Mr. Henderson. It is a track-side company?

Mr. Ingram. It is a track-side company that I mentioned before.

Acting Chairman Williams. Against whom is it brought, in general? Who are these defendants?

Mr. Ingram. Those defendants on the front there, principally all of them, are operators of major oil company leased stations.

Mr. Cox. Do they belong to this association?

Mr. Ingram. Yes, sir.

Mr. Cox. You know that they belong to it?

Mr. Ingram. Yes, sir.

Mr. Chantland. You mean the association concerning which you have been testifying and offering bulletins and cards from?

Mr. Ingram. May I read this ad? It will give you an idea of what went on. [Reading from "Exhibit No. 1253":]

On June 22nd and 23rd a large automobile caravan driven, fifty witnesses testify, by certain members of the Stark County Retail Gasoline Dealers Associa-

tion and others, drove into the Red Head track-side gasoline station located at 522 Cherry Ave. NE., blocking the driveways with forty or fifty cars and trucks.

Twenty-, fifty-, and hundred-dollar bills were flashed in payment of one-gallon purchases or less. Numerous services were requested, all with the obvious plan of tying up the station. When these "customers" ran out of service requests they still refused to move away from the pumps. Of course, this caused a general blockade of traffic, extending for several blocks, preventing the regular trade from getting gasoline.

This un-American movement was the result of the Red Head being unwilling to enter into price collusion with its competitors to raise and peg gasoline prices in Stark County.

A temporary injunction has been granted prohibiting this malicious mischief and other interference in the operation of the Red Head Station.

Mr. Cox. What is that you are reading from?

Mr. Inrgam. That is a newspaper ad in the Canton Repository on Monday, June 26, 1939.

Mr. Cox. Does it show whose advertisement it is?

Mr. Ingram. Railway Oil Stores, Inc., paid for it.

Mr. Cox. What is the Red Head station?

Mr. Ingram. That is the brand they called their gasoline.

Mr. Cox. You mean the Railway Oil Stores?

Mr. Ingram. Yes.

Mr. O'Connell. I would suggest that the witness has apparently, to my mind at least, sufficiently explained the general situation involved in the lawsuit referred to in the advertisement, and I would suggest that the material be submitted, since the legal papers are not very well authenticated, but merely be filed with the committee. I think the record sufficiently indicates the story without having the record contain the printed documents.

Acting Chairman Williams. That is my view of it. I don't see any necessity for placing this in the record for publication. It will be filed for the record, without objection.

(The pleading and newspaper clipping referred to were marked "Exhibits Nos. 1252 and 1253," respectively, and are on file with the committee.)

Mr. Ingram. Exhibit L is three so-called blacklists, as we call them in Ohio. On the face of them is "Classified Directory of Marketers of Petroleum Products in Ohio, Showing Refinery Sources of Supply, Revised Monthly." The first one is March 2, 1935.

Acting Chairman Williams. Will you pass one of those up here? Let's see what they are.

The heading is "Classified Directory of Marketers of Petroleum Products in Ohio," and then on the first sheet we have the statement, "Ohio State Petroleum Committee, Columbus, Ohio, March 2, 1935." Who is the Ohio State Petroleum Committee?

Mr. Ingram. The only one that I knew of the so-called Ohio Petroleum State Committee was Mr. Edward Reiser. Edward Reiser was the secretary for the Ohio Petroleum Industries Committee prior to the operation of the code. During the code he was secretary to the code, and after the code he operated again, as I understood, as the Ohio Petroleum Industries.

Mr. O'Connell. What is Ohio Petroleum Industries? Is it a trade association?

Mr. Ingram. Ohio Petroleum Industries, as far as I know, is not a trade association. From my personal opinion of it, it is primarily a

major oil-company affair who have a man down in Columbus to take care of legislative matters.

Mr. O'CONNELL. Have you any reason to believe that your opinion is correct, other than it is your opinion? Have you any facts that you can give the committee upon which you base that opinion?

Mr. INGRAM. Ohio Petroleum Industries still operates. They have a secretary by the name of Jack Marsh. I do not know the membership of it. I am not a member of any association myself. But I do know that in legislative matters he represents nothing but the major oil industry.

Mr. O'CONNELL. What is his last name?

Mr. INGRAM. Marsh—M-a-r-s-h. His offices now are in Youngstown, Ohio.

Mr. O'CONNELL. What is his regular business; is he a lawyer?

Mr. INGRAM. No; Jack Marsh was with the old Vahey Oil Co.; he was an oil man.

Mr. O'CONNELL. He has no direct connection with, or employment by, any oil company so far as you know?

Mr. INGRAM. Not in my opinion; no, sir; he hasn't.

Acting Chairman WILLIAMS. This list purports to have been filed by Edward Reiser, secretary.

Mr. INGRAM. That is it.

Acting Chairman WILLIAMS. Do you know him?

Mr. INGRAM. Yes, sir.

Acting Chairman WILLIAMS. Is he the only member of this committee; is he the one you were speaking of as being the member of the committee and the only one you know?

Mr. INGRAM. At one time he was secretary of the American Petroleum Industries Committee in Ohio; that is, prior to the code. Up to the code days he was secretary there, then he was secretary of the code, and after the code for a short time he operated again, I think, as the American Petroleum Industries.

Acting Chairman WILLIAMS. What is the purpose of introducing this, of presenting this exhibit?[1]

Mr. INGRAM. The purpose of introducing these exhibits is to show that unless we follow the market policy as dictated to us by our major supplier, we shall be put in that black book and we won't get any more gasoline.

Mr. CHANTLAND. What black book?

Mr. INGRAM. We call it the black book.

Mr. CHANTLAND. I thought this was the list of classified marketers, rather than those who couldn't get it.

Mr. INGRAM. No, no; this list is peculiar inasmuch as the first section shows what is known as the legitimate, honest dealers who don't cut the price, and they are not shown by tank cars and number of cars they get, and so forth, but when you get into the back section, or from the pink sheet on, you will find the fellows who operate; it states that they sell for the other fellows, and you will find that maybe they got a tank car in there. Well, take, for instance, low-price stations at Marion, received three tank cars. The intermediate

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[1] Admitted, infra, p. 8985, as "Exhibit No. 1254," and placed on file with the committee.

agency was Boswell Co., and they all three originated from Taxman Refining, at Wichita, Kans.

Mr. CHANTLAND. What does the pink sheet show as to this new classification or after the pink sheet to indicate the situation?

Mr. COX. It might help us if he would tell us what the pink sheet is. How is what you call the pink sheet headed?

Mr. INGRAM. "Cut-price jobber section, summary of shipments, December 1935."

Mr. SHAUGHNESSY. December?

Mr. INGRAM. Yes; December 1935.

Acting Chairman WILLIAMS. In that connection, are these books which you have exhibited here, you seem to have three of them, are they all the same except covering a different period? In other words, are they issued quarterly, monthly?

Mr. INGRAM. They were issued monthly.

Mr. CHANTLAND. Up to what time?

Mr. INGRAM. The last one I have is March of 1936.

Acting Chairman WILLIAMS. Do you know whether they are being issued now or not, or have been within the last 3 years?

Mr. INGRAM. That I cannot tell you. I have not received any since this last issue of March 12. However, I can say this, that various companies do go to the gasoline-tax department and get the gallonage of what maybe another fellow is doing in the district. In Ohio, under our gasoline-tax law, we jobbers must put up a bond. We must report the origin of our gasoline. That is on record in the gasoline-tax division.

Acting Chairman WILLIAMS. Those are public records. Anybody can get them?

Mr. INGRAM. Yes, sir; those are public records, but they are not put out promiscuously like this book was with the purpose of primarily shutting you off if you didn't buy your gasoline, or if you didn't maintain a price.

Mr. CHANTLAND. Do those price records show the price these people sold their gasoline for?

Mr. INGRAM. No, sir; they do not. The tax records do not.

Mr. CHANTLAND. Then the information wouldn't be there that is in the back of the book.

Mr. INGRAM. The information that is in the back of this book was not taken from the tax records.

Mr. HENDERSON. I believe it says in this one that the information was compiled from the gasoline tax division and from information furnished by chairmen of county committees.

Mr. INGRAM. That one I think, sir, was published during the code. May I read you one that was published since the code?

> This directory has been compiled from information obtained from reports received by the gasoline tax division of the State of Ohio and from information furnished by members of the industry.

Acting Chairman WILLIAMS. What is the difference between that and this? What is meant here by a county committee?

Mr. INGRAM. The county committees, sir, during the code,[1] were the committees that were set up in the counties.

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[1] N. R. A. Code.

Acting Chairman WILLIAMS. It refers to a code committee?

Mr. INGRAM. That is it; yes, sir; and are a code committee. Now the code, I think, stopped sometime in the early part of 1935. This book is March 12, 1936. [Reading from "Exhibit No. 1254":]

OHIO STATE PETROLEUM COMMITTEE, COLUMBUS, OHIO, MARCH 12, 1936

CLASSIFIED DIRECTORY—JANUARY 1936 REVISION

Ohio Gasoline Consumption Chart. (Page 2.)
Section 1: Percentage Table. (Page 3.)
Section 2: Normal Price Marketers and Supplying Refiners. (Pages 4 to 12, inclusive.)
Section 3: Open Market Shipments to Normal Price Jobbers. (Pages 13 to 15, inclusive.)
Pink Sheets: Summary of Section Four—Shipments to Cut Price Jobbers. (Pages 16 to 18, inclusive.)
Section 4: Cut Price Jobbers. (Pages 19 to 30, inclusive.)

This Directory has been compiled from information obtained from reports received by the Gasoline Tax Division of the State of Ohio and from information furnished by members of the industry.

Mr. COX. Why do you call that a blacklist? It is just a list of cut-price jobbers and dealers, isn't it?

Mr. INGRAM. Sir?

Mr. COX. Why do you call that a blacklist? As you read it to me it sounds like a list of cut-price operators.

Mr. INGRAM. It has both. One section of it here says normal-price jobbers, the other section says cut-price jobbers.

The idea of this thing was this: That by word of mouth, from various oil companies, supplying companies, and so forth, that you got your name into the back pages of this book, if you sold gasoline for less than the price that they told you to sell it at and if you got your name in the back end of this book, you were out.

Mr. CHANTLAND. What do you mean, "out"?

Mr. INGRAM. You don' buy any more gasoline unless you went out and bought it from some broker or somebody like that.

Mr. HENDERSON. Did you have any such experience as that?

Mr. INGRAM. Did I have any experiences?

Mr. HENDERSON. Yes. Did you, when you were refused sales when you wanted to buy gas, confine yourself to the regular price?

Mr. INGRAM. Under this book fortunately I was listed as a normal price jobber. But my New Deal Gasoline, New Deal Anti-Knock, which at those days was running 65 or better octane and which was regular gasoline, the same as others were selling as regular, I was selling at third-grade price. And when I tried to buy it other than from Pennzoil, who did supply me with most of it, but they had got into a little difficulty at the refinery, and said I had to buy some at the outside because they couldn't ship it, I was told I had better be doggoned careful where I bought it, if my name got in the back of that I wouldn't be able to get any more gasoline.

Mr. COX. Who told you that?

Mr. INGRAM. The Pennzoil Co.

Mr. COX. What time are you speaking of now?

Mr. INGRAM. Oh, when these books were being published.

Mr. Cox. As far as you know, the publication of these books has been discontinued?

Mr. Ingram. As far as I know, it has, sir; yes.

Mr. Cox. It has been 3 years since one came to you?

Mr. Ingram. That is right.

Mr. Chantland. Anything taking the place of them?

Mr. Ingram. Well, I don't know of any, sir; not that comes out anymore.

Mr. Henderson. Have you any difficulty in getting a supply of gasoline?

Mr. Ingram. Recently I haven't; no, sir.

Mr. Henderson. After, say, March 1936, did you have any difficulty?

Mr. Ingram. No, sir; I haven't had any difficulty in getting gasoline.

Acting Chairman Williams. Do you know of anybody else that has?

Mr. Ingram. Do I know of anybody else? I know of a lot of boys that had trouble in getting gasoline.

Acting Chairman Williams. Do you know the cause or the reason for it?

Mr. Ingram. Well, unfortunately, one day Mr. Schulroy, who is the head of the Fair Price Station at Akron, ran out of gasoline and wasn't able to get gasoline, and I hauled him a couple of loads of gasoline. Schulroy was a friend of mine, and there wasn't anything wrong in trying to do a favor for a friend, but I was stopped immediately by a long-distance telephone call telling me if another drop of gasoline went there I wouldn't get any more.

Mr. Cox. When was this?

Mr. Ingram. Sometime back in 1935 or '36. I loaned him some gasoline. He paid it back to me.

Mr. Cox. Where did this long-distance telephone call come from?

Mr. Ingram. Mr. Birkmayr, of the Pennzoil Co.

Acting Chairman Williams. Have you had experience like this in recent years—the last 2 or 3 years?

Mr. Ingram. No, sir; I haven't.

Acting Chairman Williams. Do you know of anybody else that has, within recent times?

Mr. Ingram. That I can't say, sir; I don't. Everybody seems to be able to get gasoline; it is just the price that is the main situation.

Mr. O'Connell. Do I understand that there is a difference in the character of the list as regards the normal dealers as against the price cutting dealers, in other words is there additional information contained in the list?

Mr. Ingram. Yes, sir; there is.

Mr. O'Connell. There is information as to the amount of shipments, the amount of gas that they have purchased, the source of their supply, and that sort of material?

Mr. Ingram. Yes, sir.

Mr. O'Connell. Is it on the list which applies to the price cutting?

Mr. Ingram. Yes; and only to price cutting.

Mr. O'Connell. And the normal dealers, so-called, are merely listed by name and address. Is that correct?

Mr. INGRAM. That is correct, and a percentage—in other words, we will take the list here and we will go to, we will say my own little company, which is Pennzoil, they say the "New Deal Oil Co., Canton, Ohio, 0.032." That was my percentage of gallonage that I get.

Mr. O'CONNELL. Take a company from the pink list and read me the information opposite the name.

Mr. INGRAM. The Spur Distributing Co., Columbus, Ohio, number of cars, four; intermediate agency, Willy Coyle Corporation; refinery source, Toledo, GATX 14854 STCX 9707. GATX 14854 and GATX 6061.

Mr. AVILDSEN. What are those last numbers?

Mr. INGRAM. It says under "refinery source," those show the four tank car numbers.

Mr. COX. Is that the trackside company that filed suit that you were talking about awhile ago in there?

Mr. INGRAM. Yes, sir.

Mr. COX. Is that in the pink section?

Mr. INGRAM. It is in what we call the pink section; yes, sir.

Acting Chairman WILLIAMS. Without objection the book may be received and placed on file.

(The books referred to were marked "Exhibit No. 1254" and are on file with the Committee.)

Acting Chairman WILLIAMS. Have you any other statement to make, Mr. Ingram?

Mr. INGRAM. I have one letter. Do you mean statement in regard to these?

Acting Chairman WILLIAMS. No.

Mr. INGRAM. I have two other exhibits here, Exhibit "L," a mimeographed bulletin, Standard Oil Co., an Ohio Corporation, A. A. Stambaugh, vice president, Cleveland, Ohio, June 14, 1934. [Reading from "Exhibit No. 1255":]

TO DIVISION MANAGERS:

The practice of our major competitors in permitting unbranded gasolines in their outlets to be sold in conjunction with their regular house brands, but with all the appearances to the trade that such unbranded gasolines come from that marketer, is a practice that is upsetting our market. It will be necessary for the state-wide price to be reduced to a point where our third grade gasoline meets this unbranded gasoline unless such conditions are corrected.

I received that in the mail. There is no signature.

Acting Chairman WILLIAMS. Was there anything on the envelope that it was received in to indicate where it came from?

Mr. INGRAM. Absolutely nothing but a postmark, I think at the time, of Cleveland, because it certainly scared the life out of me.

Acting Chairman WILLIAMS. Has it any date?

Mr. INGRAM. Yes, June 14, 1934. I was marketing my New Deal Anti-Knock Gasoline and this was an absolute threat that unless I carried to a third grade standard the price would be cut.

Acting Chairman WILLIAMS. Nothing to indicate at all who it is from?

Mr. INGRAM. I will offer it as an exhibit. The indication is there.

Acting Chairman WILLIAMS. That is on a par with some of the others you have offered with no signature. It may be accepted.

(The letter referred to was marked "Exhibit No. 1255," and is included in the appendix on p. 9243.)

Acting Chairman WILLIAMS. What is your next exhibit?

Mr. INGRAM. My exhibit "M," November 14, 1934; a letter from the Pennzoil Co., signed by W. R. Birkmayr. [Reading from "Exhibit No. 1256":]

NEW DEAL OIL COMPANY,
Canton, Ohio.
(Attention: Mr. Ingram.)

It has been called to our attention that you are soliciting dealer business in the city of Canton at a guaranteed 4¢ margin for one year.

This is contrary to the accepted structure in that area and under the terms of our contract you are not permitted to sell our branded merchandise at other than our regular posted prices. Inasmuch as your offer of a guaranteed 4¢ margin is contrary to our policy, we must request that you cease such solicitation immediately.

We hope that our information on this matter is incorrect and that you have not been making such offers. We are calling it to your attention, however, so that you will know definitely what our policy is on such solicitations.

Yours very truly,

(Signed) W. R. BIRKMAYR.

Now I would like to go into some detail about this. At the particular time this thing happened there was a 4-cent margin that existed temporarily for dealers. The Monarch Tire Co. of Canton were hunting a source of supply, that is they were going to make a change from Shell to someone else. They called me and they asked me what kind of a margin I would give them. I told them I would give them 4 cents. Well, they weren't sure but what they might put in tank car storage themselves and they would let me know. The next day I had a telephone call from Oil City from Mr. Birkmayr telling me that Mr. Stambaugh of the Standard Oil Co. was just raising hell because I had offered a 4-cent margin for a year, and inasmuch as 4 cents was in effect right now it didn't mean for a year, and so forth, and I told Birkmayr I was running my own business and would do as I pleased. I was allowed at that time to take the contract at whatever price I saw fit, and that is the reason for that letter.

Acting Chairman WILLIAMS. It may be received.

(The letter referred to was marked "Exhibit No. 1256" and is included in the appendix on p. 9244.)

Mr. COX. Has anything like that happened recently, in the last year? This letter is in 1934.

Mr. INGRAM. Not recently, other than they tell you you will either maintain their price or they won't give you a new contract.

Mr. COX. How recently was a statement of that kind made?

Mr. INGRAM. Well, they told me that the major oil companies were not making contracts with anybody that was cutting price with their branded products.

Mr. COX. When did they tell you that?

Mr. INGRAM. Not so long ago; I can't say definitely, probably within the last 3 or 4 months.

Acting Chairman WILLIAMS. Have you any further exhibits?

Mr. INGRAM. I have one more, a newspaper clipping which I would like to read one paragraph of.[1]

[1] Not introduced into the record.

Mr. Cox. Tell us what newspaper it is.

Acting Chairman Williams. And the date.

Mr. Ingram. Plain Dealer Bureau, Akron, Ohio, February 18. [Reading date line of article.] This year.

> * * * Robert H. Collacott, division manager for the Standard Oil Co. of Ohio, disagree in discussions on the gasoline situation here.
>
> Collacott said it was to the superstation that the major companies were looking more and more as the eventual heavy dispenser of their wares.
>
> In advocating the lower-margin program, Collacott predicted such benefits to the dealers as less chiseling and cut-throat competition, almost complete elimination of secret rebates, premiums, and other forms of inducements, less expansion in the wholesale and retail field and fewer price wars.

I offer that as evidence——

Acting Chairman Williams. You have just read that in the record. There is no need of offering it again, I take it.

Mr. Cox. What significance do you attach to that?

Mr. Ingram. The significance that I attach to that is that they have definitely warned us through the press that if we give rebates, if we give premiums, or if we cut the price, Lord help us on our margin.

Acting Chairman Williams. Any further questions? If not, we thank you, Mr. Ingram, for your appearance and your contribution.

(The witness, Mr. Ingram, was excused.)

Acting Chairman Williams. The committee will be in recess until 2:15.

(Whereupon, at 12:40 p. m., the committee recessed until 2:15 p. m. of the same day.)

AFTERNOON SESSION

The hearing was resumed at 2:20 p. m., upon the expiration of the recess.

Acting Chairman Williams. The committee will please be in order.

Mr. Anderson.

Mr. Anderson.

Will you be sworn, Mr. Anderson?

Do you solemnly swear the testimony you are about to give in the matter now pending will be the truth, the whole truth, and nothing but the truth, so help you God?

TESTIMONY OF H. H. ANDERSON, VICE PRESIDENT, SHELL OIL CO., INC., ST. LOUIS, MO.

Mr. Anderson. I do.

Acting Chairman Williams. You may state your name, your experience, and connections, for the record.

Mr. Anderson. My name is H. H. Anderson. I am vice president of Shell Oil Co., Inc., St. Louis, Mo. I am a graduate electrical mechanical engineer from California universities. During the World War I served as an officer in the Meteorological Section of the Signal Corps. I entered the oil business in 1917 as a field worker with Shell in California and, except for the war service, have been with Shell continuously since that time. In 1928 I was chief engineer of Shell's producing department. At that time I served as national chairman

of the A. P. I.'s[1] technical committee on drilling practice, also as chairman of the Los Angeles section of the American Society of Mechanical Engineers; after 1930 was administrative executive in the general management. I spent several years throughout the United States dealing with matters of internal company organization and administrative procedure.

I served during the year 1934 here in Washington as chairman of the labor subcommittee of the oil code authority, or Planning and Coordination Committee, and had the privilege of appearing in behalf of that code authority before the National Industrial Recovery Board during its hearing in 1935 on employment provisions in codes. From June 1935 to June 1936 I was temporarily engaged in Mexico.

I have been a vice president of Shell since 1933, with present headquarters in St. Louis, dealing principally with personnel and public relations.

My undertaking to present to you here a broad picture of the petroleum industry's employment working conditions follows a suggestion to me from Mr. Byles.

Acting Chairman WILLIAMS. You are the vice president of the Shell Oil Co.?

Mr. ANDERSON. One of them.

Acting Chairman WILLIAMS. When and where was that company incorporated?

Mr. ANDERSON. Shell Oil Co., Inc., is a Virginia corporation, incorporated March 8, 1917. Shell Union Oil Corporation, the holding company, is a Delaware corporation, incorporated February 8, 1922.

Acting Chairman WILLIAMS. It is a subsidiary of the Shell Union?

Mr. ANDERSON. The company of which I am a vice president is an operating subsidiary of the Shell Union.

Acting Chairman WILLIAMS. What is your capital stock?

Mr. ANDERSON. I am afraid that I can't answer that type of question because I am not very conversant with it. I have no connection with the commercial activities of the company and I believe that information was filed with the committee.

Acting Chairman WILLIAMS. Do you know how many other subsidiaries the Shell Union has?

Mr. ANDERSON. Approximately, the Shell Co., Inc., handles all its integrated exploration, production and refining, and marketing in the United States. The Shell Pipeline Corporation handles the transportation of petroleum products in the Mid-Continent.

Acting Chairman WILLIAMS. Who owns it?

Mr. ANDERSON. Both of those companies are owned 100 percent by Shell Union Oil Corporation. It has a 50 percent interest in Shell Development Co., a research organization on the Pacific coast, and also a 50 percent interest in Shell Chemical Co., a chemical manufacturing company on the Pacific coast.

Acting Chairman WILLIAMS. I understand your company, then, operates in all fields of the oil industry?

Mr. ANDERSON. In all branches?

Acting Chairman WILLIAMS. Yes.

Mr. ANDERSON. Yes, sir.

[1] American Petroleum Institute.

Mr. CHANTLAND. Shell Union is the top holding?

Mr. ANDERSON. Shell Union is the holding company.

Mr. CHANTLAND. Top holding?

Mr. ANDERSON. So far as American operations are concerned, yes.

Mr. CHANTLAND. What do you mean by that?

Mr. ANDERSON. Well, we are affiliated with the Shell interests elsewhere in the world. The majority of the Shell Union common stock is held by the Royal Dutch Shell interests.

Mr. CHANTLAND. That is incorporated where?

Mr. ANDERSON. Either Great Britain or Holland.

Acting Chairman WILLIAMS. You may proceed unless someone else has some questions along that line. Do you have a prepared statement which has been filed?

Mr. ANDERSON. The prepared statement which I have filed was of necessity a rather formidable statistical document with a great many tables and references to source material, which I felt it was advisable to include in order to support the points which I was attempting to present. I have, however, prepared a very brief summary of that which I would like your indulgence to present to you, together with some simplified charts which I feel will give you a quick grasp of our employment situation.

Acting Chairman WILLIAMS. I have in front of me what is a mimeographed copy of your statement, which I suppose you offer for the record?

Mr. ANDERSON. Yes, sir. I filed the statement. I didn't understand that I had to include it in some other fashion.

Acting Chairman WILLIAMS. I am not clear yet as to which statement you are referring to.

Mr. ANDERSON. The statement which was filed about August 1 was a complete statement, of which you probably have a copy there. I have asked to have permission to present a very brief summary of that statement, which will give you the picture in the shortest possible time.

Acting Chairman WILLIAMS. I hand you this statement to see if that is the statement to which you have reference having been filed by you.

Mr. ANDERSON. Yes, sir; this is the statement filed on or about August 1.

Acting Chairman WILLIAMS. It may be accepted for the record and you may summarize your statement in the manner indicated.

(Mr. Anderson's prepared statement was marked "Exhibit No. 1257," and is included in the appendix on p. 9245.)

Mr. ANDERSON. The charts which I am going to present are simplified copies of those in the statement.

Acting Chairman WILLIAMS. In other words, it is not your intention to introduce these charts which you discuss, they already having been introduced; is that correct?

Mr. ANDERSON. Not in identical form. I prepared some new charts recently for the purpose of giving you a little simpler picture of the same information that is in the other charts, and I would like to have them included, as I make reference to them in this short summary, because they are simpler to comprehend than the other ones.

Acting Chairman WILLIAMS. The point in my mind is, if they are duplications I don't see the necessity of having them in the record.

Mr. ANDERSON. They are not duplications exactly.

Acting Chairman WILLIAMS. All right, you may proceed.

CONTRIBUTION BY THE INDUSTRY IN EMPLOYMENT AND PURCHASING POWER

Mr. Anderson. An industry, like an individual business, justifies its economic form and existence when it faithfully serves a useful purpose and distributes its benefits fairly to all concerned. The American petroleum industry has continuously given the ultimate consumer more, better, and cheaper essential products; it supports the railroads and suppliers of other materials and services to the extent of 1⅐ billion dollars per annum; it and its commodity sales raise a substantial share of all taxes required by government—1¼ billion dollars last year; and its shareholders as a group over a number of years have earned less than 6 percent on a total domestic investment of more than $8,000,000,000.

The industry's increasing and improving supplies of cheap fuels and lubricants facilitate the operation of nearly 30,000,000 vehicles in motor transportation, carrying the essentials of daily life through the arteries of American trade. This development—made cooperatively by the petroleum and automobile industries—gives direct and indirect employment to over 6,000,000 American workers who support one-seventh of our population, and is an immeasurable contribution to the American standard of living.

Announced objectives of the Temporary National Economic Committee are the increase of employment and the purchasing power. It is my particular privilege to tell what the American petroleum industry has done directly in this respect, and of the treatement it gives its own employees. It is proud of an unusually fine record, achieved with a minimum of industrial strife and without adverse-price increases to consumers. Its labor peace, bringing continuity of employment, has also brought continuity of liquid-fuel supply. Both results have been essential to the national well-being.

The factual data to be presented have come largely from reports of Government bureaus, principally from those of the Bureau of Labor Statistics. These are supplemented by data from the special survey made by the American Petroleum Institute for this occasion of a number of the larger oil companies who employ nearly a quarter million persons, primarily in production, pipe lines, refining, and wholesale marketing.

Certain comparative references are hereafter made to the composite performance of all manufacturing, and to that of a number of other large basic industries. These are automobiles, machinery, other chemicals, rubber, iron and steel, bituminous coal, and textiles. Public utilities and railroads, being subject to special regulation, were considered not comparable.

These mentioned comparisons are self-evident in various bureau reports.

Historical improvement: The special survey [1] indicates that during the last 24 years weekly earnings in petroleum operations have increased about 60 percent, while weekly working hours have decreased 43 percent. Two and one-third men are now working where but one worked before.

The employer's direct pay-roll cost per man-hour has increased about 180 percent, or nearly tripled, since 1914.

[1] Referring to "Exhibit No. 1258," appendix, p. 9299.

Mr. O'CONNELL. That chart would also indicate that weekly earnings of employees have decreased slightly since 1924. Is that correct? Is that the right way to read that line?

Mr. ANDERSON. Yes; that is indicated there.

Mr. O'CONNELL. The major part of the 60-percent increase to which you refer occurred apparently between 1914 and 1920.

Mr. ANDERSON. Yes; although the major part of the cost occurred after 1929, on account of the very substantial reductions in working hours.

Mr. AVILDSEN. In other words, you mean the weekly earnings did not rise since that time, but the hourly earnings have gone up?

Mr. ANDERSON. Actually, what I have called the "employer's unit cost" is the hourly rate.

Mr. AVILDSEN. So the worker's average hourly rate is very substantially above 1924, even though his weekly earnings are slightly below 1924?

Mr. ANDERSON. The index in 1924 of the worker's hourly rate was about 190, whereas in 1938 it was 280.

Mr. SNYDER. Mr. Chairman, in order to clear the record, are these being introduced and being received? He is discussing them.

Acting Chairman WILLIAMS. That is the understanding, the reason I asked that question awhile ago, whether or not these were duplicates of the ones already included in the record.

Mr. ANDERSON. For example, this one is not. The information is given in the report, but there was no chart introduced to support it.

Acting Chairman WILLIAMS. The information upon which this chart is based is already now in the record?

Mr. ANDERSON. Yes, sir. The chart makes a grasp of it much simpler, and I would like to have it included.

Acting Chairman WILLIAMS. I think it may be included.

(The chart referred to was marked "Exhibit No. 1258" and is included in the appendix on p. 9299.)

Mr. BERQUIST. Before taking that chart away, the employee's weekly earnings is average weekly earnings per employee, is it not, based upon the 1914 base? That isn't the total wage bill.

Mr. ANDERSON. No; that is the individual employee's earnings.

Mr. BERQUIST. Does that cover all branches of the industry?

Mr. ANDERSON. I can refer you to the report as to how that was determined; as I indicated, that wasn't exactly a weighted average. We asked for typical information on those three items in 18 typical jobs in the various branches, taking what we considered a typical job in drilling, a typical job in producing, a typical job in field maintenance, a typical refinery operator, a typical refinery maintenance man, and a typical laborer, and so on down the line.

Mr. BERQUIST. Did you include filling-station operators as well?

Mr. ANDERSON. Marketing employees are in there.

Mr. BERQUIST. And no weight was given to the different classifications of employment in accordance with their numbers, their actual numbers?

Mr. ANDERSON. No; I explained that in the report, that that was not a weighted average, because we had no knowledge, historically, of the numbers included, but it merely indicated trends.

Mr. BERQUIST. A simple average of that kind, including skilled labor and all other classes, might be quite misleading as compared

with a weighted average, particularly in view of the fact that so many of them are engaged in, say, distribution, as compared with some of the more highly paid skilled technical jobs in, say, the drilling operations or refinery operations.

Mr. ANDERSON. There is just as much chance that you would raise proportionately some modestly compensated employee as some who are skilled. The general tendency is to increase rates more or less in the like proportion of everyone.

Mr. BERQUIST. Well, it is very likely true that a 5-percent decrease for filling-station operators would have a greater effect, a greater weight, in a composite average, than a 25-percent change in, say, one of the skilled occupations. Is that not true?

Mr. ANDERSON. Well, I offer the chart for what it is worth.

Mr. CHANTLAND. I take it you mean it might show a very different result.

Mr. BERQUIST. Yes.

Mr. CHANTLAND. It wouldn't be misleading if he stated his average.

Mr. BERQUIST. Yes.

Mr. ANDERSON. All of the information on which the chart is compiled is given in the report and described fully, as to how it was obtained. Inasmuch as we had no knowledge of the numbers of employees in the various classifications, and there was quite a substantial parity in the general percentage movements amongst the various jobs, we felt that that simple average would give some indication of what our improvement had been.

Mr. AVILDSEN. Have you any explanation of the rise from 1929 to 1938? That is not the hourly rate there, the rate of the employers due to labor costs.

We all think of 1929 as a good year, with good wages paid.

Mr. ANDERSON. We must recognize that the employee's pay envelope is in effect the product of his hourly rate times his hours worked per week, and despite the conditions under which we have had to operate since 1929, which was a boom year, we have endeavored consistently to reestablish the employees' earnings, and with the reduction in working hours from an average of perhaps 54 down to 36, for example, in the production, pipe-line, and refining branches, the only way that could be done was to increase hourly rates approximately 55 percent.

Mr. AVILDSEN. Are most of these employees paid on a salary basis rather than an hourly rate?

Mr. ANDERSON. Practices differ, but, in general, most of the so-called wage earners are paid on an hourly basis. The customary hours in production, pipe-line and refining operations, are 36 per week, or 156 per month, and if the fellow works regularly full time his monthly pay envelope is the product of that figure times hourly rate.

Mr. BERQUIST. May I ask one further question? On your line of employers' unit labor cost that would indicate, then, the costs per laborer were rising much more rapidly than increases in productivity, would it not?

Mr. ANDERSON. Yes, sir.

Mr. CHANTLAND. I would like to get clear on this. You happen to be a vice president of the Shell Co.; you use the word "we." You are here presuming to speak for the petroleum industry rather than your company, and if you use "we" it means the industry unless you specify differently?

Mr. ANDERSON. I am working under the psychology that I am cooperating with the group who came down here at the suggestion of Mr. Byles [1] to present a broad picture of the industry's conditions, and when I say "we" I refer to at least all of the major companies. I believe in our labor relations we don't need to differentiate greatly between the majors and others for the reason that the major companies are not alone in their fine treatment of employees. I also consider myself an employee and I feel that anything that has been done has been a joint accomplishment of management and the employees.

Mr. CHANTLAND. I think that is clear. In other words, you aren't speaking now as vice president of the Shell, for the Shell Co.; you are speaking for the industry as far as you are able.

Mr. ANDERSON. I am trying to present a picture of the petroleum industry in toto.

Many oil companies went through the late depression until September 1933 without substantially cutting hourly wage rates. Then they increased rates almost overnight through voluntary action sufficient to restore weekly earnings in May 1934 to about 20 percent of the 1929 level. Rates and earnings since have increased more than 25 percent.

Petroleum was the only industry in 1938 out of the several compared that gave its average worker more actual earnings than he received during the boom of 1929.

I may say that this chart—No. 2, Recent trends, wage, hours, and purchasing power, 1929–38—while not so qualified, represents the weighted average of conditions for the production, pipeline, and refining employees of the larger companies.

Mr. CHANTLAND. What chart, titled what?

Mr. ANDERSON. Chart No. 2, entitled "Recent trends."

(The chart referred to was marked "Exhibit No. 1259" and is included in the appendix on p. 9300.)

Mr. AVILDSEN. No marketing of petroleum is in that chart?

Mr. ANDERSON. No, sir; I have information on wholesale marketing employees, which is given in tables 3–A, B, and C in the previously filed report,[2] and I think that study will show that the general trends in wholesale marketing at least follow quite closely these figures, which were taken as the average of the other three branches.

I did not attempt to put into these charts the figures on service stations' employment for the reason that there have been substantial reductions in numbers of direct service station employees amongst the larger companies to such an extent that the comparisons could hardly be called typical.

Mr. BERQUIST. Are those figures based upon Bureau of Labor statistics or based upon a special survey?

Mr. ANDERSON. Those are based upon a special survey of which the details in their entirety are given in tables 4–A to F, inclusive,[3] with the sole exception that the individual companies are not named. And they are extensions of similar charts which were presented before the Cole Committee covering the years of 1929, '33, '34, brought up to date in this A. P. I. survey for '36 to '38.

[1] Axtell Byles, president, American Petroleum Institute.
[2] "Exhibit No. 1257," appendix, p. 9245 at 9289.
[3] Appendix, pp. 9291–9296.

Hourly wage rates as reported by the Bureau of Labor Statistics [referring to "Exhibit No. 1260"], throughout 1938 averaged 98 cents in refining and 85 cents in production. The average rate in all manufacturing was 65 cents. A 92-cent rate was the highest in any of the compared industries.

I would like to explain briefly how this chart works because I shall refer to it in the future.

(The chart referred to was marked "Exhibit No. 1260," and is included in the appendix on p. 9301.)

Mr. Anderson. I have tried to tie together here all of the features that go into the annual figure, and I have shown in turn a comparison of six figures, of which the first one, taken from the special survey, is the weighted average of production, pipe line and refining wage earners of the larger companies, and the other five, the second being production employees, the next refining employees, the next all manufacturing, and the next the highest and lowest of these seven compared industries, are taken from the Bureau of Labor Statistics. I have just referred to conditions in the first block of the chart and I will refer to the others subsequently. This is a simplification of certain of the "marcel waves" that were in the other report.

The larger companies [referring to "Exhibit No. 1259"] report an average hourly rate for production, pipe-line, and refinery wage earners of 98 cents in 1938 as compared to 64 cents in 1929. That is the lower black line there with index on the right side.

The Bureau reports that the 1938 average entrance rate for common labor in refining is 63½ cents per hour. The comparative figure for all manufacturing was about 21 percent less. Petroleum generally pays its unskilled laborers even higher rates after about 6 months employment, a practice which enables it to attract new employees with better than average educational and physical qualifications.

If you compare in your minds the 63½-cent entrance rate for common labor in refining with some of our recent wage and hour legislation, you will see that we are well in advance of any minimums that have been established.

Hours worked per week as reported by the Bureau—see chart 3—during the months of 1938 varied only between 39 and 40.5 in production, and between 35⅓ and 37 in refining, or about 2.4 percent of the combined average, an outstanding regularity compared to most of the other industries with variations ranging from 7 to 35 per cent of the average.

The larger companies now adhere quite closely to 36-hour schedules in the operating branches, and to 40-hour schedules for wholesale marketing and office workers. Since 1929 the working hours in those companies of production, pipe-line, and refining workers—see chart 2—have been reduced 32 percent, those of wholesale marketing workers 20 percent, and those of office workers 8½ percent.

I may say that those varying reductions came about through the effort to meet the indicated requirements of the Petroleum Code, as promulgated September 2, 1933, which set 36 hours per week as the average hours in the three field branches and 40 as the average hours in wholesale marketing and office work. It also set 48 hours in service stations.

Petroleum has made a noteworthy effort to adhere to the spirit of the old N. I. R. A. employment provisions and the present trends toward moderate working schedules.

Most striking are petroleum's relatively high weekly earnings and their unusual regularity. According to Bureau reports [referring to "Exhibit No. 1260"] average 1938 weekly earnings of production and refining wage earners were nearly $34.50 as compared to 33 percent less in all manufacturing, and a spread between 13 and 54 percent less among the other industries. The larger companies reported $35.80 in these branches. Bureau data indicate that not one of the annual averages of weekly earnings in the compared industries exceeded or even equalled production and refining in any of the last 9 years.

Average 1938 weekly earnings in petroleum, as reported by the Bureau, were about 3½ percent above the 1929 averages. On the other hand, the 1938 average in all manufacturing was nearly 7 percent below that of 1929, and none of the compared industries had reestablished its 1929 average.

According to the larger companies [referring to "Exhibit No. 1259"] petroleum employees earned about 5 percent more per week in May 1938 than in 1929, an increase made despite the substantial reduction in working hours during the same period. Inasmuch as the May 1938 cost of living was only 84 percent of the 1929 cost, the so-called real wage or individual purchasing power of these employees in 1938 exceeded that of 1929 by about 25 percent.

His actual earnings increased 5 percent, the cost of living compared to the 1929 index of 100 was 84 percent, and this divided by this gives you the so-called real wages or purchasing power, approximately 125 percent of the 1929 level.

The monthly employment volume in petroleum, as reported by the Bureau, during 1938 was quite steady, that in refining fluctuating between months only 2 percent and in production only 5 percent from the annual averages. On the other hand, that in the compared industries fluctuated more widely during the year, in one case as high as 41 percent. Monthly pay rolls of the several industries in general fluctuated about the same as employment.

Good planning in the petroleum industry brings its unusual regularity of employment. For example, looking at chart 4 we see that refiners can store several months' stock of refined products and despite wide seasonal fluctuations in product demand, they can either run to or withdraw from storage and thereby schedule daily crude runs to stills at almost uniform year-round rates, thereby substantially leveling out year-round employment.

(The chart referred to was marked "Exhibit No. 1261" and is included in the appendix on p. 9302.)

These black lines—lower third of chart, top section—represent the monthly averages of the demand for motor fuel, residual fuel oil, and gas oil and distillate fuel.

Acting Chairman Williams. You are now referring to the chart entitled "How we level employment"?

Mr. Anderson. Yes, sir. The green sections indicate periods when the production is in excess of the demand and the excess is run into

storage. The pink section—in middle of chart, below heavy black line—indicate those periods when the demand is in excess of the production and there are withdrawals from storage to meet the demand.

This line—middle third of chart—shows the oil average crude run to stills, and while it looks jagged on the chart, you will see the change throughout the year is only slightly between 31 and a little over 32½ hundred thousand barrel units per month. If this scale had been brought down to 100, this line would look pretty straight.

The upper section of the chart, the employment index in refining as reported by the Bureau of Labor Statistics for the several months of the year 1938 and '39 in turn fluctuated from only about 98.3 down to 94.4, which other than for a slight trend to decline was fairly straight, in fact unusually straight so far as annual regulation of employment in the industry is concerned.

Considerable leveling out of seasonal variations in wholesale marketing employment has followed the development in northern States of domestic fuel-oil business to replace winter reductions in gasoline consumption.

In the few years past, when it began to freeze over in the North and everybody put their cars away in the garage, the job in the marketing department reached quite a low ebb, but with the development of domestic fuel oil, facilities which had been used for the throughput of gasoline were changed to handle the fuel oil and volume was built up so that there has been quite a substantial leveling out of wholesale marketing employment through that practice. A special study of 1935——

Acting Chairman WILLIAMS (interposing). Right in that connection, do you mean there is a difference in the production of the fuels and the gasoline, and that that varies according to the season?

Mr. ANDERSON. There is a difference in the demand. For example, you want gasoline to drive your automobile in the summer, and you want fuel oil to heat your house in the winter. The relative percentages produced are approximately the same throughout the year, but in the summertime fuel oil is run into storage and gasoline is withdrawn from storage, whereas in the wintertime, gasoline is run to storage and fuel oil is withdrawn from storage.

Acting Chairman WILLIAMS. Your production, then, is fairly uniform, and it is a question of storage?

Mr. ANDERSON. That is right, and of planning your month to month crude oil runs to stills, so that you have the least seasonal variation in your working force.

Mr. CHANTLAND. You are like the man who sells ice and coal, are you?

Mr. ANDERSON. That's right; quite similar.

Mr. BERQUIST. That Bureau of Labor Statistics Employment Index—that is for the whole industry, including marketing?

Mr. ANDERSON. No; that chart deals only with refining showing how they have leveled out employment in refineries.

A special Bureau study of 1935 reported actual annual earnings of refining employees to be $1,415 as compared to 25 percent less in all manufacturing. Based on Bureau annual averages of weekly earn-

ings, computed annual earnings [referring back to "Exhibit No. 1260"] for 1938 in refining were $1,815 as compared to 34 percent less in all manufacturing, and from 19 to 53 percent less in the compared industries.

An analysis of the 1935 earnings of 240,500 employees of the larger oil companies was compared to the analysis made by the National Resources Committee of 39,000,000 individual income-tax returns. Only 8 percent of those employees earned less than $1,250 as compared to 59 percent for the national total. The $1,250 to $3,000 range included 83 percent of the petroleum employees, and only 34 percent of the national total. Among the larger companies, all wage earners as a group in 1938 averaged $156 per month, and the office and supervisory group averaged $207 per month.

This chart, entitled "Spread of Income," comprises a spread of two features; one, the number of people involved, and the other side the aggregate earnings, in brackets. These brackets, in general, cover $250 increments.

(The chart referred to was marked "Exhibit No. 1262" and is included in the appendix on p. 9303.)

Mr. Anderson. Now, as stated in the longer report,[1] this admittedly is not a strictly fair comparison, because one segregation is on the basis of earnings as reported to the Treasury, whereas the other is net income as reported to the Treasury, and the comparison is of interest although not exact. But the one point that I was anxious to bring out is the healthy distribution of earnings in the industry, the fact that in order to get these figures we don't have to average horses and rabbits to get some figure in between that has no relation to either.

Mr. Berquist. May I ask one more question on what is included, Mr. Anderson, in that 240,500 of total employment. Would that include all the production, refining, and transportation?

Mr. Anderson. It is every employee of that group of companies.

Mr. Berquist. Including marketing?

Mr. Anderson. Every employee.

Mr. Berquist. And that is based, of course, upon your own——

Mr. Anderson (interposing). That came from the special survey; yes, sir. Annual earnings measure the employee's economic fortune, but hourly wage rates measure the relative cost to the employer of his man-hour units of labor. Except as the employer is able to introduce other forms of operating economy, each increase in hourly rates brings an increase in production costs.

Mr. Berquist. May I ask one other question before you leave that chart? Do you know what percentage of that 240,000 represented in that distribution is made up of marketing employees or retail employees?

Mr. Anderson. I haven't the exact number as applied to the total number of companies that we were able to get comparative information on because in some of these instances where we didn't have the complete record back through to 1929 we eliminated all data which weren't comparable, but in this particular instance, where we asked merely for a 1938 position, we were able to get a higher coverage that we could use than certain comparisons that we have shown clear

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[1] "Exhibit No. 1257," appendix, p. 9245.

through. Actually, as of 1938, based on a smaller coverage, there were 201,500 employees, except service stations, and 9,600 employees in service stations.

Mr. BERQUIST. So your percentage would be in the magnitude of between 3 and 4 percent represented by service-station employees, if that proportion held in this.

Mr. ANDERSON. Nearly 5 percent.

Mr. BERQUIST. That would be 3 or 4.

Mr. ANDERSON. Nine and one-half to two hundred would be pretty nearly 5.

I can state, however, that the average weekly earnings of the service-station employees of these companies in 1938 was $26.64, which we can compare with $35.80 as the average for the production, pipe-line, and refinery workers. In other words, their earnings averaged about five-sevenths of the others, so, if you take 4⅓ times $26.64, you get somewhere around $115 a month as the average earnings.

Mr. BERQUIST. Those are employees on day or hourly basis; they are not lessees in any sense.

Mr. ANDERSON. No; they are strictly employees usually compensated on a monthly basis.

Mr. BERQUIST. And they should not be confused, then, with the income that might be derived by service-station lessees.

Mr. ANDERSON. No; although we shouldn't draw any conclusions that the others may not be as well off.

Mr. BERQUIST. I just wanted to be sure which you were using.

Mr. ANDERSON. As I stated a moment ago, except as the employer is able to introduce other forms of operating economy each increase in hourly rates brings an increase in production cost. To accomplish the reported establishment by the larger companies of better than 1929 earnings for employees in 1938, the direct man-hour cost of production, pipe-line and refining work, as indicated by chart 2, was increased 54 percent. That of wholesale marketing work was increased 33 percent, and that of office and supervisory work was increased 15½ percent. That again reflects the point made a few minutes ago, that we had endeavored to work toward a reestablishment of pay envelope or period earnings in setting these changes in wage rates.

These substantial increases in unit labor costs were not passed on to the consuming public, however, as the record shows that the average ex-tax service stations price of gasoline was reduced 21½ percent during the 9-year period.

Mr. O'CONNELL. That computation, I take it, doesn't take into account other operating economies that might have been achieved in the same period. I mean would it necessarily follow from what you said that those increases in production costs were not passed on?

Mr. ANDERSON. Naturally, your service-station price of gasoline is the net result of the entire activity, but obviously the increase in unit-labor cost was very substantial, and despite that there is a very healthy reduction in these consumer prices.

As to labor turn-over, according to the Bureau, refining shows the lowest quit rate or measure of voluntary separation of any compared industry. Only one of the compared industries shows comparable discharge and lay-off rates. Among employees in the larger oil companies, 35 percent have more than 10 years of service.

Even this healthy figure is adversely misleading because of the industry's rapid growth and the decrease in weekly working hours since 1929, both of which factors have necessitated recent hirings.

Complete information on the present and historical volumes of employment and pay rolls for petroleum is not available. Various Government bureau reports give merely incomplete coverage of some of the branches. As examples, the United States Bureau of Labor Statistics data exclude most office and supervisory workers. The Census Bureau's survey of retail marketing in 1935 excluded earnings, or entrepreneurial withdrawals, of 180,000 retail filling proprietors, most of whom were full-time workers, and the Census Bureau entirely abandoned its census of petroleum marketing in 1937.

The Interstate Commerce Commission data on pipe-line employment include only that on interstate lines. It is of interest also that the Government statisticians disagree occasionally. As one example, the United States Bureau of Labor Statistics indicated that employment in production decreased 2⅔ percent from 1935 to 1936, whereas the United States Bureau of Mines report states that "the increase was about 15 percent in 1936 over 1935."

A very recent W. P. A. study now reports an increase of 9.8 percent. As another example, the United States Bureau of Labor Statistics indicates that 1937 pay rolls in refining exceeded those of 1929 by 17⅓ million dollars, whereas, the Census Bureau reports an increase of only 9¼ million. Such disparities in official statistics leave all interested parties in a quandry. The fact that published data do not parallel available operating activity indices supports the conclusion that either the sampling is not representative or the coverage is incomplete.

The figures of the reporting larger employers also suffer from certain disregarded conditions. For example, their 1929 rolls included 10.2 percent of their employees who were engaged in extraordinary construction work, and not normally subject to retention after its completion. As of May 1938, about 47,000 employees of rig-building and drilling contracts were at work for all producers in the oil fields. About 9,400 were serving the larger companies, a figure to be compared with 2,500 in 1929. None of these were reported by the producers for whom the work was done, and few if any contractors' employees were counted by the United States Bureau of Labor Statistics in its routine reports.

Despite the combined effect of the two conditions just described, the reported number of direct employees for 17 of the larger companies in all activities except retail service stations was 201,500 in 1938, or approximately 93 percent of the 1929 total.

Based on May as an average month, the annual pay rolls were almost exactly $420,000,000 in both years, showing in 1938 a complete resumption of 1929 direct labor costs. The combined direct real wages or purchasing power provided by these companies in 1938 was 18.8 percent above that in 1929.

Mr. Berquist. Do you think there is any greater validity in those figures than the figures of employment that you cited awhile ago?

Mr. Anderson. Taking account of the fact that there are certain features in them that are not comparable, nevertheless these were the exact reported pay-roll outlays of these companies, so that the statement is correct as it is given.

Mr. BERQUIST. Would you summarize by saying that the official statistics that are gotten out on the petroleum industry are quite vague and possibly inaccurate in many respects?

Mr. ANDERSON. They are vague to the extent that they do not always define their coverage. They are of questionable validity from a historical basis, because comparatives can only be made successfully on identical establishments, and it is not practical in trying to make long-range comparisons to always carry ahead the same number of establishments, as for example, we get from the United States Bureau of Labor Statistics each month, a percentage which shows the trend of employment; there is one month compared to the next, but if you try to tie that thing way back down to 1929 it is impossible, as indicated by the fact that they will not give out the base data for their 100 percent in 1929 in production.

Mr. BERQUIST. As you know there was no census of mines and quarries taken in 1929. That was one of the industries of the whole decennial census that was omitted. It had been taken in 1919, 1909, 1902, and 1890. I wonder if you would suggest we ought to have a good accurate census of the petroleum industry so that these facts we are dealing with might be resolved on a more or less accurate basis.

Mr. ANDERSON. I might suggest that regardless of what you find out today you aren't going to help the historical situation, but we will put ourselves in a much better position for the future.

I might also comment that a great many employers are spending a considerabl amount in the wages with certain of their employees to prepare these statistics which are furnished to the Government bureaus, and if it were practical to modify those slightly so as to get a little more comprehensive information, we would all be better informed with very little extra work.

Mr. BERQUIST. For the record, I understand that the act for the 1939 census also omits a canvass to be taken for the petroleum industry as in 1929.

Mr. ANDERSON. Of course, we have no way in the industry that we can undertake these things except in certain simple attempts of this kind where only a few companies are requested to furnish some statistics, but I am quite sure that there are several of the men in the industry who would be glad to discuss some of these matters with the Bureau officials and see if a better ultimate result couldn't be gotten.

Mr. BERQUIST. You would also personally urge that a comprehensive accurate census be taken in this decennial census they are now planning?

Mr. ANDERSON. I believe it would be in the public interest to have that information.

Dr. LUBIN. Mr. Anderson, I am interested in your chart, particularly that line which shows employers' unit labor costs. Just what does that figure show?

Mr. ANDERSON. That is the hourly rate.

Dr. LUBIN. Is it fair to call it unit labor cost?

Mr. ANDERSON. It is the man-hour labor cost.

Dr. LUBIN. But that is quite different from unit labor cost. Isn't it true that the unit labor cost has been going down steadily in the past 5 years of the industry?

Mr. ANDERSON. According to what your unit is.

Dr. LUBIN. Unit of production, gallons of gasoline, gallons of lubricating oil, gallons of fuel oil.

Mr. ANDERSON. I call it man-hour unit. It is debatable as to what you want to label it. I might have said hourly rate and there would have been no controversy. It is our cost of having a man work an hour.

Dr. LUBIN. Does it mean anything?

Mr. ANDERSON. Why, certainly.

Dr. LUBIN. After all, you are interested in what it costs you to produce products, aren't you?

Mr. ANDERSON. That is right.

Dr. LUBIN. What difference does it make, then, what it costs you to employ a man an hour or for 10 minutes? What you are really interested in is what you pay him to produce a given number of units of goods.

Mr. ANDERSON. Well, I venture to say the man's interest is in what he gets for his hour and I think we have a common interest.

Mr. AVILDSEN. I think, Dr. Lubin, I might explain that while you were absent Mr. Anderson presented this chart to show not what their costs of production are, or anything of the sort, but rather how the workers come out. This is to show how the workers come out.

Dr. LUBIN. The chart says "employers'" unit.

Mr. AVILDSEN. I agree with you that is not good terminology. I think it would have been better to have said average hourly rate paid employees.

Mr. ANDERSON. That is right, employers' labor cost per man-hour.

Dr. LUBIN. What percentage of your workers are time workers, or are paid by the hour?

Mr. ANDERSON. If I can refer to the industry's totals, the industry's totals as reported by the larger companies show 150,000 so-called wage earners as against about 59,000 office and supervisory employees, so it is somewhere around 70 percent.

Dr. LUBIN. Of those wage earners how many are paid by the hour on straight hourly rates?

Mr. ANDERSON. Well, in the light of my limited knowledge of the subject, I would say that most companies pay hourly rates to their wage earners in production, pipe lines, and refining and monthly rates to their employees in marketing.

Dr. LUBIN. There are no piece rates in the industry?

Mr. ANDERSON. Occasionally we have piece rates for such activities as cleaning out stills where an employee is anxious to get the job done in the quickest possible time and we are equally anxious to have it done, but it is a very uncommon practice. It may be, also, in certain places where they can oil or make candles, or things of that type, that they have piece rates, but it is not common. There has been a trend toward, to a certain extent, the payment of monthly wages to certain employees in production operations and in certain very junior supervisory jobs, and I believe two or three of the larger companies pay more monthly wages than they do hourly wages, but you couldn't characterize it as a typical practice.

Dr. LUBIN. How would you account for the sudden change—to me it is rather sudden, it is a period of 5 years—in labor conditions in

the petroleum industry? Here is an industry that 10 years ago was operating on a 55-hour week, which even in those days was high. Then by 1934 they had gotten down to a 36-hour week. That 36-hour week came into effect how? Why the sudden change or improvement in labor conditions?

Mr. ANDERSON. The improvement, at least the change in the working hours, was the result of a combination perhaps of sharing the work as advocated by Mr. Hoover and a finalization on 36 hours in field operations under the petroleum code.

Dr. LUBIN. In other words, then, the so-called improvement in labor conditions, the high standards that prevail in the industry, and nobody will deny they are as high as prevail in almost any industry, you will admit is a relatively recent thing, isn't it?

Mr. ANDERSON. On an industry-wide basis that statement is correct, although it is true that amongst individual companies and for example quite generally on the Pacific coast they had attained relatively low-working hours as early as 1929.

Dr. LUBIN. Even in '29 when prosperity was supposed to exist here was a big industry paying 33 cents an hour on the average, according to your chart.

Mr. ANDERSON. The hourly rates are on the other side.

Dr. LUBIN. The hourly rate is that black line, is it not?

Mr. ANDERSON. Yes; but that refers to the index on the right, not the left.

Dr. LUBIN. Oh, I am sorry.

Mr. ANDERSON. Sixty-four and a half cents is the 1929 hourly rate.

Dr. LUBIN. But it was operating on a 55-hour basis, back in 1933 it was operating on a 45-hour basis.

Mr. ANDERSON. That is right.

Dr. LUBIN. Can you tell us for the record what proportion of the workers in this industry are organized, let's say in refineries, first the industry as a whole and then refineries?

Mr. ANDERSON. If you define "organized" I will try and answer that.

Dr. LUBIN. Members of the trade unions that come within the certification of the National Labor Relations Board, in other words, independent trade unions.

Mr. ANDERSON. Do you mean the C. I. O. and A. F. of L. only?

Dr. LUBIN. Yes.

Mr. ANDERSON. In refining amongst the larger companies and giving each plant credit for a 100-percent coverage where it has formal agreements, I would say that 13½ percent of our employees are in the C. I. O. and 6.1 percent in the A. F. of L.

Dr. LUBIN. That is for the industry as a whole.

Mr. ANDERSON. That is a coverage of 80 percent of the refinery wage earners.

Dr. LUBIN. In other words, 19 percent approximately are organized, of refinery workers?

Mr. ANDERSON. Yes; of which 2 percent represents increase in the last 4 years.

Dr. LUBIN. Do you know how many of these companies in this chart have collective agreements with trade unions?

Mr. ANDERSON. Well, that percent covers all the employees of 18 companies.

Dr. Lubin. Well, how many of those companies have collective agreements with trade unions?

Mr. Anderson. I didn't count my figures that way. I merely took the total number of employees that were included without reference to the number of companies. I don't think that is an equitable way to look at it for the reason that every company might have an agreement, but one might be company-wide and the other might cover a few crafts in one plant.

Dr. Lubin. Do you know how many of those companies have collective agreements covering workers in the refineries as a whole, that is on an industrial basis?

Mr. Anderson. Out of 128 refineries I believe there were about 20 plants with C. I. O. agreements and 7 plants with A. F. of L. agreements, which had any substantial coverage. That still doesn't answer your question, but I don't remember any summaries on a company basis.

Dr. Lubin. When did the unions become active in the industry?

Mr. Anderson. I would say that they have had members in the industry for a great many years.

Dr. Lubin. The crafts have, no doubt; I mean your blacksmiths, machinists——

Mr. Anderson (interposing). And the oil workers.

Dr. Lubin. Have you any idea, though, as to what the membership was, let's say, in 1933 as compared to today?

Mr. Anderson. Zero. There were none on a formal agreement basis.

Dr. Lubin. Is there any relationship between the fact that the union became active in '34 and '35 and those figures on your chart?

Mr. Anderson. There may be. We are only attempting here to show the composite accomplishment of the industry, which has come about through years of historical friendly relations between the management and the men, and which were on an exceptionally high basis even in 1929, and relatively high in 1933. As to what effect the entrance of the two organizations into our plants has had, as distinguished from what might have happened without their entrance, I am not in position to evaluate.

Dr. Lubin. The reason I ask is, as you stated a minute ago, in 1929 to 1934 the industry isn't one which you would characterize as having very high labor conditions. In other words, an industry that operates a 55-hour week isn't operating in terms of modern labor conditions on what you would call a terribly high plane.

I notice that at the present time, conditions in the industry are very, very good, equal to and better than those that prevail in the large majority of industries in America, a higher wage rate, lower hours, more regular employment, and I think the industry should be congratulated on that fact, and that fact should be admitted. I am wondering, however, as to how far the industry itself was responsible for this sudden betterment that came about suddenly, according to that chart, in conditions and how far this was the result of an attempt to organize the workers in the industry, and successful organization in the plants.

Mr. Anderson. Well, I would say that the getting to the 36-hour week was a Government fiat.

Dr. Lubin. The unions had something to do with that, though.

Mr. ANDERSON. Perhaps they did.

Dr. LUBIN. Under the N. R. A. the unions were represented in the negotiations that led to the 36-hour week.

Mr. ANDERSON. That's right, but I didn't take part in any activities here before the code was promulgated. I am not acquainted with it.

Dr. LUBIN. All I am attempting to show—I am not saying the industry isn't to be congratulated on these conditions. I wonder, however, whether the unions operating in the industry aren't also to be congratulated, in part, for the conditions that prevail in the industry; incidentally, conditions of which they are terribly proud, and of which they boast?

Mr. ANDERSON. If you will permit me to read a short prepared statement which I wrote after you gave me an indication that you were going to ask me this question, I think I can answer your whole question more comprehensively than I have done.

Acting Chairman WILLIAMS. If it is in answer to the question, go ahead.

Mr. ANDERSON. A few days ago Dr. Lubin told me that he proposed to ask me (1) to what extent employees in the refining branch of the industry are working under union-labor agreements, and (2) what effect this unionization has had in the establishment of our favorable present-day wage levels and working conditions.

I had tried during the preparation of my statement to confine myself to the presentation of industry accomplishments, and to avoid all fruitless or indeterminate questions of cause. Bureau statistics have been quoted to prove that the relative freedom of our industry from disruptive strikes has been outstanding, and I made the broad statement that our achievements—

> reflect the continued straightforward and cooperating attitude maintained by both management and employees in dealing with their mutual problems.

Starting in 1918, larger employers on both the east and west coasts encouraged the formation by their employees of associations for collective bargaining, and the relatively high wage levels and working conditions extant in the industry prior to the N. I. R. A. indicate the sincerity of our employers in working harmoniously with these associations or employee-representation groups.

Thanks to section 7 (a)—that well-known provision born with the N. I. R. A., carried into the Petroleum Code, and revived in the Wagner Act—these simple and effective bargaining organizations were maligned by organized labor and some were ruled to be illegal by the labor boards. Nevertheless, they served well the employees of the oil industry prior to their final dissolution when the Wagner Act was passed.

Now, to answer the first part of Dr. Lubin's question: Prior to June 1, 1934, when one large oil company signed a Nation-wide open-shop agreement with the Oil Workers International Union (now a C. I. O. unit), there were no known formal union agreements in force in refineries of the larger companies. In March and April 1935 this same company signed a Nation-wide open-shop agreement with A. F. of L. crafts unions covering its employees who were members of those unions. A total of about 4,900 wage earners are today employed in the refineries of this company.

Following Dr. Lubin's query, I made an informal survey of conditions in 128 refineries of 18 of the larger companies employing 66,657 wage earners in May 1938. This covers about 80 percent of the refinery wage earners in the industry. Counting all employees in all reported refineries where formal union agreements are now in force, a total of 9,054 employees are covered by C. I. O. agreements and 4,116 are covered by A. F. of L. agreements. These numbers, totaling 13,170 employees, represent, respectively, 13.6 and 6.1 percent of all employees reported. It is of interest to note that since June 1935 the two organizations have made agreements in 6 refineries of the larger companies including less than 3,000 employees. In addition to the places where formal agreements are in force, the C. I. O. or A. F. of L. is recognized as a collective-bargaining agency in 10 refineries employing 4,023 employees.

The formation of independent unions by refining employees has been quite popular since January 1937, and today there are reported by these larger refiners a total of 53 plants with 34,100 employees where formal agreements with independent unions are in force.

We will have to clear up our use of the word independent. If you will understand these to mean not affiliated with the old-line unions, or not in the C. I. O. and A. F. of L., that will qualify my use of the word. This latter includes 53 percent of the total employees in the 128 refineries.

I obtained the statistical information herein presented on the basis of personal contact and an agreement not to release individual company details. However, I am offering for the record a chronological chart showing a summary of the information received.

(The chart referred to was marked "Exhibit No. 1273" and is included in the appendix on p. 9304.)

Mr. Anderson. In reply to the second part of Dr. Lubin's question, I may say that any attempt to evaluate the effect of this post—N. I. R. A. unionization in the establishment of present-day conditions—will be one of mere opinion or conjecture whether it be done by myself, Dr. Lubin, or one of our good union friends. I offer a few items as a basis for an opinion.

A careful study of Bureau statistics of comparative weekly earnings, etc., made effective prior to June, 1934—and even in 1929—indicates that this industry was characterized by unusually fine conditions before any C. I. O. or A. F. of L. agreements were made. The friendly employer-employee informal bargaining arrangements in effect as far back as 1918 are not to be overlooked.

Much of the improvement in hourly rates made effective between September 1933 and May 1, 1934, were voluntary, and in most instances went substantially beyond an arbitrary wage order promulgated by Secretary Ickes on May 21, 1934.

In few, if any, of the union agreements signed by the larger refiners was any substantial wage increase a consideration.

In few, if any, of the few strikes reported at the larger refineries was the matter of wage increases a substantial issue.

In other industry branches not as prevalently unionized as refining, the improvement in wages and hours has been just as good as in refining, as is borne out by the following tabulation, which I have just

handed you. In other words, considering the weekly earnings, the hourly rates and hours per week in the three branches as they have changed in total between May 1933 and May 1938 they are in essence parallel.

(The tabulation referred to was marked "Exhibit No. 1264" and is included in the appendix on p. 9304.)

Mr. ANDERSON. I am afraid I cannot give Dr. Lubin the answer he wants, but I feel I express the views of the larger employers generally when I say that we are proud of the wage record of our industry and of the fact that we have been able to pay such good wages, as well as to reduce prices to consumers, and still earn our stockholders a return on their investments. All of this has been made possible by our technological advancement, the benefits of which we have tried to distribute equitably amongst those concerned. I do not mean to convey the thought that all of these unions, C. I. O., A. F. of L., and the independent ones, have not been instrumental in bringing about improvements in working conditions and wage rates, but I want to impress upon this committee the undisputed fact that management in all the oil industry has always taken pride in its labor record, believing that it is good policy to pay high wages because of the morale thereby established and the additional service rendered by the employees. I have given you some factors there, and you will have to make your own conclusions.

Dr. LUBIN. I think the conclusion is self-evident, that the labor conditions in the industry are very, very good.

Mr. ANDERSON. It is true, Dr. Lubin, that perhaps the hours worked per week in 1929 and on into the earlier part of the depression were fairly high, but I think you will agree with me that in the terms of labor psychology of less recent date, the average earner was interested in how much he could get in his pay check, and that most comparisons of what constituted good wages were on how much he carried home every week rather than on exactly how many hours he had to work to get it.

I made the statement here in an earlier part of my paper—and I can't put my finger on it now—that in no one of the last 9 years has any of the seven industries with which our record was compared equalled the earnings given in the petroleum industry.

Dr. LUBIN. On a weekly basis?

Mr. ANDERSON. On an annual average of weekly basis, which of course would be the fair way to make it. So what we have done more recently, to my mind, shows no unusual trend in employer psychology or employer attitude. Our position was just as good relatively in 1929 as it is today, with the exception that we have since made slightly better increases in hourly rates. It is of interest, however, I think, that the hourly rates have certainly gone up faster than man-hour productivity in that period.

Mr. O'CONNELL. On that point, I am not sure that what you said a few moments ago would give us a little different answer to that, but it seems to me you indicated a little while ago that taking 17 oil companies, their total wage bill, so to speak, in 1938 was almost exactly what is was in 1929.

Mr. ANDERSON. Yes.

Mr. O'CONNELL. You don't have any figures on the production of those companies, do you, as to whether they have grown or their production has increased?

Mr. ANDERSON. Have you my set of tables there? Table 2–J [1] represents a very loose attempt to determine activity indexes in terms of total out-turn of the industry in various branches, in terms of 1929 equals 100. I might say that I don't want to overwork the year 1929, but that happens to be the basis taken for indexes in the nonmanufacturing branches of the Bureau of Labor Statistics, and while it was an abnormal year, that very fact makes it a good one to shoot toward.

Mr. AVILDSEN. Are you talking about the 2–J table? Do we have such a thing?

Mr. ANDERSON. It is in my previously filed report. They didn't reproduce the tables with my report.[2] I don't know why I was selected for that distinction, but maybe I put in too many of them.

For example, 23 percent more wells were drilled in 1937 than in 1929. There are 10 percent more wells producing in 1938 than in 1929. The volume of crude oil produced was 20.4 percent more. In pipe line transportation, with the last figures in 1937, it was 12.6 percent more mileage operated and 11.4 percent more barrels transported. In refining, there was 18 percent more crude refined, 27.8 percent more motor fuel produced. In marketing, there was 36 percent more motor fuel delivered, and there were 10.7 more motor vehicles served.

How you are going to take those and make something out of it is hard to tell, but if you go right straight down the line, we will say the average improvement in activity is perhaps 18 percent, whereas the restoration of 1929 employment as reported by the larger companies is 93 percent. Again we come into a consideration of these figures which show you the hopelessness of considering certain published figures on productivity.

Mr. O'CONNELL. I think we are probably getting a little far afield. My question was originally that since you had given us, or had been able to get the exact pay roll cost of 17 individual companies for the year 1929 and the year 1938, I thought that if you happened to have or had been able to get the exact pay roll cost of 17 individual companies for the year 1929 and the year 1938, I thought that if you happened to have production figures for the same companies for the same years, it might be some indication as to the productivity of labor which you had referred to generally. But if you haven't the figures, there is no use in speculating on it.

Mr. ANDERSON. I will be glad to read you a brief on that subject because it is a very good one—a very good subject, perhaps not a good brief.

We must recognize that certain changes in operating technic, particularly in refining, have increased the per man-hour productivity of labor. In this respect, the producing and manufacturing operations of the oil industry are perhaps not much different than those of other progressive industries.

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[1] Included in "Exhibit No. 1257," appendix, p. 9283.

[2] Mr. Anderson refers to a mimeographed press release. All of the data submitted by him are included in his prepared statement, appendix, p. 9245.

It has been estimated from various Bureau statistics that the barrel output or throughput per man-hour between 1929 and 1937 increased 26½ percent in production, 11 percent in pipe lines, and 63 percent in refineries.

It is of interest to note, however, despite these seemingly alarming trends, that the larger company direct pay rolls as of 1938 reflect a reduction of only 7 percent in total employment compared to 1929, and no reduction in total annual earnings.

It is of further interest to note that these technological improvements have changed the composition of the working force so that an increasing percent of skilled labor and a decreasing percent of unskilled labor is being required by the industry. In support of this I give a case analysis recently reported by one large oil company.

In its refineries, between 1929 and 1938 the number of skilled workers increased from 27 to 52 percent of the total wage-earner force, whereas the number of unskilled workers decreased from 25 to 12 percent. The number of semiskilled workers decreased from 48 to 36 percent.

In its producing operations, between 1935 and 1938 the number of skilled workers increased from 21 to 29 percent of the total wage-earner force, and the number of semiskilled workers increased from 54 to 59 percent, whereas the number of unskilled workers decreased from 25 to 12 percent.

I beg your indulgence to quote three paragraphs from a recent W. P. A. research publication on petroleum employment:

(1) The changes in the technical process of refining have been attended by important economies in unit labor requirements. * * * Despite such labor saving, employment has shown a general long-time growth, and in 1937—the latest year for which statistics are available—it was above the previous all-time high of 1929. The constantly increasing demand for petroleum products apparently has more than offset the decrease in labor requirements per barrel of crude oil charged.

(2) The unit labor saving achieved by added improvements in technology may be counterbalanced entirely or partly by other factors in determining the volume of employment. The Fair Labor Standards Act may multiply employment opportunities faster than the prospective growth of marketing requirements tend to indicate. Under proration, for example, most companies have had to hire additional field men, more technicians have been needed to direct the operation of wells at restricted rates of flow, and more clerical employment was provided as the needs for records multiplied. Technical and clerical personnel was also recruited for State agencies charged with the administration of laws and regulations.

We might recall Colonel Thompson's testimony,[1] that he had over 400 technical experts in his department built up under the needs of proration in the State of Texas.

Mr. O'Connell. You wouldn't call those industry workers, would you? That sounds like an expansion of government.

Mr. Anderson. That is true, but it came about through the fact that our industry was in existence and brought that employment into being.

(3) Although the outlook is for increasing employment opportunities, the influence of technology in modifying the composition of the working force is expected to continue. The demand for unskilled labor in most branches of the industry is disappearing rapidly. The trend is now towards trained technicians and skilled and semiskilled workers, and away from the floating crews of roustabouts that formerly comprised most of the industry's working force.

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[1] Included in Hearings, Part 15.

Mr. O'CONNELL. On my particular question as to the productivity of labor, I guess we can agree that labor in the oil industry, as in industries, is constantly becoming more productive.

Mr. ANDERSON. Yes, sir; that is right, and I quoted in here certain figures.

Dr. LUBIN. Mr. Anderson, is one to deduce from those figures that this change in hourly rate is really not so much the result of increased wage rates as a shift in the type of labor force from the lower-paid, unskilled, and semiskilled to more and more a larger proportion of your working force being in the highly skilled groups?

Mr. ANDERSON. That has had some effect, unquestionably, all of which is given account in these over-all averages. As I pointed out, however, in connection with the preparation of chart 1, which was compiled from an unweighted average of information back to 1914, where the individual described job was carried clear through the periods under consideration, we find approximately that same reflected improvement in wage rates which I have called the employer's unit labor cost. If you read the longer reports, you would perhaps recall the manner in which that information was obtained by a summary of the reports of typical job rates from the 17 or 18 larger companies covering about 18 specified jobs.

Mr. AVILDSEN. Mr. Anderson, the figure, employer's unit labor cost, chart 2[1]; is that a weighted average?

Mr. ANDERSON. That in chart 2 is a definite weighted average of production pipe line and refining wage earners.

Mr. AVILDSEN. Of 18 companies, or how many companies?

Mr. ANDERSON. It includes companies with a total employment of about 210,000 men. As I explained to Mr. Berquist, we solicited this information from approximately 20 companies, but in our endeavor to carry all comparisons back to 1929 we were forced to discard certain ones—at least 2 of them—1 of which reported a reorganization right after 1929 that made its 1929 figures useless, and another 1 who wasn't able to give us the break-down we requested into office and supervisory employees and wage earners in the 4 branches. But this does cover a weighted average of approximately 101,315 employees.

I might say that that data was all made up from the columns showing the totals of production, pipe lines, and refining in tables 3 A, B, and C.[2]

Mr. AVILDSEN. I would like to get back to this question of unions. Do I understand that the C. I. O. and the A. F. of L. have organized workers only in the refining end of the business, or have they organized some of the production employees as well?

Mr. ANDERSON. They have organized some employees in the other branches. Dr. Lubin said that he would be satisfied to have the information on refining only, and he may have had in mind that there is perhaps more percentage unionization in that branch than in the other branches.

Mr. AVILDSEN. Is that your opinion—that there is a smaller percentage of unionization in the producing and pipe line as distinguished from refining?

Mr. ANDERSON. That is a horseback estimate; yes.

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[1] "Exhibit No. 1259," appendix, p. 9300.
[2] Appendix, p. 9289.

Mr. AVILDSEN. You are not sure?

Mr. ANDERSON. I am reasonably sure; yes.

Mr. AVILDSEN. I think it might be significant for this reason—that according to this statement you gave, headed "Interbranch wages and hours comparison"——[1]

Mr. ANDERSON (interposing). I made the statement that unionization in those branches wasn't as prevalent as in refining. Those are the facts as I understand them.

Mr. AVILDSEN. I say it might be significant, because it seems that the production and pipe-line employees have had greater increases since 1933 than the refinery employees have had, which would seem to indicate that the greater union activity in refining did not bring as great increases as the production and pipe-line employees received. Is there any significance in those figures?

Mr. ANDERSON. I don't believe the effect of that organization on the establishment of those rates is substantial, pro or con. Of course, you must recognize that this industry was already in a pretty healthy condition relatively, and it is pretty hard to find flaws—at least in our wage system—which are subject to very much complaint other than minor individual cases or leveling out occasionally of inequities between what two or three men are doing with respect to other men, and where those cases have been brought to attention they are usually immediately leveled or taken care of.

I have had the pleasure of being acquainted with executives in this industry who have had a voice in these matters for a long time, and I know that as a group they have always tried to do the right thing by their employees. Most of them came into their present positions the hard way and have always appreciated the employee's point of view. Most of us like to feel that we are employees and that through these various bargaining arrangements, of which the entrance of the old-line trade-unions was only a variation, these matters have been the subject of discussion between employers and employees in more or less organized forms for years; in fact, to my knowledge for 21 years on both coasts.

Mr. AVILDSEN. Mr. Anderson, about these independent unions, you and Dr. Lubin seem to understand what they are and if your formal statements cover an explanation of them I won't ask you to go into an explanation of them here but I think for the record we ought to have some explanation of what these independent unions are that you show on this chart headed "Unionization in Refineries of Larger Oil Companies."[2]

Mr. ANDERSON. Those are organizations which have been formed by the employees of their own volition and without any interference or coercion of any part of their managements.

Mr. AVILDSEN. Do the men who run those unions spend all their time on jobs in these different plants?

Mr. ANDERSON. It varies according to how big they are and what their problems are.

Certain of these unions were formed voluntarily by the employees while under considerable solicitation by the old line unions.

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[1] "Exhibit No. 1264," appendix, p. 9304.
[2] "Exhibit No. 1263," appendix, p. 9304.

Dr. LUBIN. Some of these have been actually certified to, haven't they, by the National Labor Relations Board?

Mr. ANDERSON. Yes, sir. Of course, in the old days before the practice was conceived to be illegal, the employer made it possible for the men to meet with him on company time and helped them to defray certain minor expenses in connection with the meetings, and was presumed on that account to exercise great influence over their thinking. I don't believe that was the case and I don't feel that the fine results which came about under that old system can be belittled to any extent. I have no fault to find with the present conditions, and perhaps some of these present independent unions—which were the outgrowth of the older forms of organization after a complete dissolution—are in a position to bargain more effectively, but it is rather hard to see that it has made very much difference.

Mr. O'CONNELL. Are those older organizations to which you refer generally known as company unions?

Mr. ANDERSON. We usually heard them called employee representation plans.

Mr. O'CONNELL. Do you understand there is such a thing in common parlance, or has been, as company union?

Mr. ANDERSON. I don't like to use that word because it involves two different concepts. You can have an employee representation plan where the company took part in it and you can have one of these independent unions that included only the employees of one company. That might be called in casual parlance a company union.

Mr. O'CONNELL. I take it it is a phrase that is used in casual parlance.

Mr. ANDERSON. Well, Mr. Mencken's book [1] indicates that parlance varies considerably, and this is a much bandied term. Some of them had what we call joint representation where the committee actually comprised members of the management, selected by the management, as well as members selected by the employees. Others were from their outset completely formed by and of the employees. The extent to which the formation may have been coercive was a matter of opinion. However, I am certain that all of the groups reported in this survey are of the type of which several have been certified by the National Labor Relations Board.

Mr. O'CONNELL. If they were of the type I would think of when I refer to company union I take it they would probably be unlawful.

Mr. ANDERSON. You still have the old representation plan in your mind as a company union. While we have always had the friendliest relations in the industry with the C. I. O. and the A. F. of L., we haven't conceded to them the sole privilege of being considered unions in the proper legal sense.

Mr. O'CONNELL. Was the old provision of section 7A [2] about the right of employees to bargain collectively through representatives of their own choosing carried over in effect into the National Labor Relations Act?

Mr. ANDERSON. In effect it reads approximately the same, although there are more restrictive provisions as to penalties for employer interference.

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[1] H. L. Mencken: "The American Language."
[2] Of the National Industrial Recovery Act.

Mr. O'CONNELL. I mean substantive right.

Acting Chairman WILLIAMS. With reference to your chart here,[1] as I understand it, the independent unions represented during the year 1935 and '36, about 20 percent of the employees, and during the year 1937 rose to 60 percent. What is the explanation of that sudden rise of the independent unions?

Mr. ANDERSON. I think that it perhaps was an attempt in these groups, which consider themselves to all intents and purposes to have previously been bona fide unions, to reassert themselves after the passage of the Wagner Act and to take on a more formal character. In other words, this survey gave no count of representation plans in the earlier concept.

Acting Chairman WILLIAMS. As I recall, the Wagner Act was finally declared constitutional by the Supreme Court in March, I believe, of 1937, and it seems that immediately following that, according to your plat, there was a very sudden rise in those unions. I don't know whether that has any connection or not.

Mr. ANDERSON. I don't believe that in essence it was any more than an attempt of numbers of these associations which had perhaps felt themselves dissolved in their earlier form under the act, to take new form on a strictly legal basis, and it perhaps is approximately a measure of the extent of these representation plans in effect before they were considered illegal.

Acting Chairman WILLIAMS. You don't think, then, their plan of organization changed any during the year 1937; they simply continued their form of organization that they had maintained before that?

Mr. ANDERSON. No; I say that I believe that in general the same employees were involved, but whatever shortcomings there may have been in their earlier form of organization they took action on their own volition to correct and asked the company to enter into agreements with them. Now the basis of Dr. Lubin's question was to what extent are these employees covered by agreements, union agreements, and that is the basis of this count, and there were none considered as such except as they developed through these unions which constitute themselves free and independent, devoid of any possible question of control by the companies.

Acting Chairman WILLIAMS. Do I understand from your general statement here that there are no reliable statistics giving the amount of employees in the different categories of the oil industry, for instance engaged in production, transportation, refining, and marketing?

Mr. ANDERSON. There are statistics, but in almost all of them the exact coverage is not determined.

Acting Chairman WILLIAMS. Has there been nothing like a reliable break-down of those figures?

Mr. ANDERSON. I believe that the United States Bureau of Labor Statistics' figures in refining are very near to the correct picture as regards the total employees in that industry. On the other hand, it is not certain when you consider those figures whether they only contain so-called wage earners or at what level in the scale of office employment or supervisory employment they may cut off. In the

[1] "Exhibit No. 1263."

Bureau of Mines survey, for instance, the question is wide open as to the amount of employment by independent contractors. There have been several estimates made, and perhaps the Mines survey in 1937 was a fairly good count.

Acting Chairman WILLIAMS. I have in mind trying to ascertain the number of people there are engaged in this industry throughout this country. Is there any figure that is reliable at all, or even a substantial guess at it?

Mr. ANDERSON. The American Petroleum Institute has endeavored to make a consolidated estimate of employment, and this recent W. P. A. study has endeavored to make consolidated estimates for 1937 also.

Acting Chairman WILLIAMS. What is that estimate?

Mr. ANDERSON. I don't recall exactly what the W. P. A. estimate had. Incidentally, the publication to which I am referring I think came off the press only a couple of weeks ago, entitled "Technology, Employment, and Output per Man in Petroleum and Natural Gas Production. A W. P. A. National Research Project and Department of the Interior, Bureau of Mines."

Of course, this book is really a compilation of about all of the statistics that are available, including the United States Bureau of Labor Statistics as well as others.

It is our general opinion that there are approximately a million employees who more or less directly earn their living in the petroleum industry. That includes employment in between 200,000 and 225,000 service stations, and a small count per outlet in approximately one hundred-some thousand retail outlets where the sale of gasoline is not the primary sale.

Acting Chairman WILLIAMS. All right. Your estimate, in your opinion, is that there are a million. Have you that same opinion as to how many are engaged in the production end of the industry?

Mr. ANDERSON. Yes, sir; I can give you an approximate break-down of that figure.

The most recent general estimate is that prepared by the American Petroleum Institute and issued in its Petroleum Facts and Figures, a booklet which it gets out recurrently. They estimate 156,400 people in producing, taking account not only of wage earners but also of office and supervisory employees in each of these branches; 29,599 in pipe lines; 12,000 in marine——

Acting Chairman WILLIAMS (interposing). Twelve thousand in what?

Mr. ANDERSON. Marine—tanker operations; 98,451 in refining; 124,798 in wholesale marketing; 402,800 in service stations, and approximately 182,000 engaged in outlets where gasoline is marketed and which might take the time of approximately that many people in total.

Now, extending those numbers by what we feel would be reasonable average annual earnings, we reach an annual wage bill of slightly over a billion and a half dollars per year, and that is taking account, in the service stations, of average earnings of $106 per month, and in these miscellaneous outlets of about $87 per month. The other figures are on the basis of major-company figures.

If I may proceed, I can close my formal statement here very quickly; I touched on that matter.

Acting Chairman WILLIAMS. I was under the impression you had finished. I beg your pardon. Go right ahead.

Mr. ANDERSON. Dr. Lubin got me into a very interesting subject, one I know we are all interested in, but which perhaps we haven't yet resolved.

I want to mention, while here on this subject, just one other problem with respect to the determination of this employment, and that is the tendency in the industry to shift to contract work. It has been a very substantial trend in the last 10 years.. It has come to my attention recently that even in routine oil field maintenance work out in the areas where wells can be produced under proration that with only a small portion of the total 24 hours on the pump, numbers of companies have sprung into being who will contract the maintenance of those wells, and for those employers who use that service the payment for that work would be covered by a voucher check and not show up on their pay roll, and any employer who uses those services, who was a regular reporter of statistics to bureaus, would automatically tend to show less employment than he actually was supporting.

To cite a case with which I am familiar, in refinery construction it was much more common in 1929 to do construction work with your own employees than to contract it. But with the continued trend toward processes involving more complicated technics, and specially constructed equipment, there have come into being numbers of reliable construction companies who can undertake to contract a plant for you and give you a turn-key job of it if you want it. At the present time my own company is undertaking a $5,000,000 construction program at Wood River, and we find that it is easier for us to contract a very substantial part of that work on a turn-key basis than it is for us to undertake the various administrative problems that are involved in doing it ourselves, because these contractors are set up to do that efficiently and they move from job to job and can quote attractive prices. They come on our property, they usually pay the going wages, and there is no fundamental intention on our part to reduce employment; it is merely that it is a simpler way to handle it.

But the net result is that our reported pay-roll figures don't reflect all the employees of those contractors that we are, in effect, giving employment to.

Another thing which has very badly upset these historical relationships in our bureau statistics is the unusual wave of construction work that was in effect, for example, in 1929, where some of these index figures are as high as 100 percent.

We happened during the Oil Code, in connection with a study we made, to solicit a number of the larger employers to find out how many of the employees, as of May 1929, were engaged in extraordinary construction work not subject to retention after the job was finished, and, for example, in the 4 branches, out of 58,709 production employees, there were 6,408 of them on special construction work. In pipe lines, out of 16,744 there were 4,116, or almost 25 percent of the force, engaged in actually building new pipe lines as distinguished from operating and maintaining pipe lines.

In the refining, out of 59,332 there were 13,800 employees doing strictly new construction work. In marketing there were very few, out of 66,017 there being only 697.

But if we try to merely compare one period with the next without taking account of the various elements that go into these figures, we are always left pretty much up in the air as to how to draw conclusions.

Dr. LUBIN. Also, this very marked effect in 1936, when you shifted from operating your own stations to leasing them out. Automatically those people disappeared from the pay rolls of the oil industry.

Mr. ANDERSON. It so happens, however, in that instance, that there was no agency that that employment was reported to. It may have been, however, that that shift had something to do with the problems with which the Census Bureau was confronted in trying to carry through with their census.

I just covered the next matter in my summary.

The Oil Code Authority in 1934 prepared an estimate of industry total employment and annual direct pay rolls. I refer to the industry in its broader aspect, as including all retail outlets. A review of the 1934 study indicates that the figures developed for the marketing branch were perhaps too high. However, subsequent upward trends among the larger companies in other branches of several percent in employment and about 25 percent in pay rolls led to the conclusion that, including all service-station proprietors and their entrepreneurial withdrawals, 1,000,000 workers and one and one-half billion dollars annual earnings are conservative estimates of industry employment and pay rolls today.

Much has been heard of actions of the larger supplying companies between 1935 and 1938 to lease out numbers of service stations to ex-employees or others on an independent dealer basis. The extent of this activity has been greatly overemphasized, however, inasmuch as probably not more than 16,000 stations out of an estimated total of more than 300,000 retail gasoline outlets in the United States have been changed. And most of the companies had similarly leased out large numbers of such stations for some time before.

The employment and earnings in service stations today are matters that can be determined only by estimate. The larger companies report weekly earnings for service-station employees of $26.64 with a 48-hour week, in 1938, as compared to $24.35 with a 54-hour week in 1933. Data on employment at about 220,000 independent service stations cannot be obtained readily for this report.

With respect to the 16,000 stations where the form of operation has been changed since 1934, a composite estimate of 7 of the larger suppliers indicates that there was an average of $260 per month per station available in 1938 to compensate the proprietor and his employees, as compared to direct labor payments of $239 per station under company operation in 1934.

Now, the summary of those estimates is shown on page 44 of my filed statement, and the detail of the estimates of the seven companies is shown in table 2–T.[1] The basis of the statement was to take the actual

[1] Appendix, p. 9289.

1934 labor bill, which averaged $239, to compare that with the 1938 operation where the gross normal margins, plus the revenues from miscellaneous services, were shown as total receipts from which were deducted rents paid and miscellaneous expenses.

Mr. BERQUIST. Which set of companies were those, Mr. Anderson?

Mr. ANDERSON. Standard of Indiana, Standard of Kentucky, Socony-Vacuum, Continental, Shell's Midcontinent organization, and Shell's Pacific coast organization.

Mr. BERQUIST. What 2 years do you compare?

Mr. ANDERSON. 1934 before this shift started and 1938.

Mr. BERQUIST. What was the average margin that you used in calculating 1938?

Mr. ANDERSON. I can only report the products on a monthly basis, as they gave them to me. This tabulation is one that I would accept as being made in good faith, and that is about the only way that we can accumulate and give this information for what it is worth. I am sure that we have no intention of trying to create erroneous concepts.

Mr. BERQUIST. I hark back to what Mr. Swensrud [1] indicated, the impression that the average margin of service stations for the retail sale of gasoline had declined between those years.

Mr. ANDERSON. Perhaps it did, but I was reporting margins as they existed in 1938 as compared to direct pay-roll outlay in 1934, where any question of margin was a matter between the major company and those with whom it dealt—not with the service-station man himself.

Mr. BERQUIST. Your conclusion is, then, that what was available for wage payments in 1938 was greater than actual wage-payment requirements in 1934.

Mr. ANDERSON. Do you mean wage-payment performance?

Mr. BERQUIST. How do you differentiate that?

Mr. ANDERSON. I mean what was actually paid. You can call that a performance or requirement, as you please.

The special survey indicated how since 1900 the industry has continuously improved the security of workers through timely adoption of various supplementary benefits, such as paid vacations, pension and thrift plans, pay while in jury service and on summer military duty, group disability and life insurances, safety, health, and social welfare programs, severance pay, cost-free medical service, provision for housing on isolated properties, and so forth.

It is of interest that the group life-insurance plans of 18 of the larger companies have in force more than $624,000,000 in death benefits, the companies paying part or all of the premiums on more than half of this coverage. Nearly $2,000,000 of weekly benefits are in force under group accident and sickness insurance plans. Mutual benefit associations in these companies cover a quarter of the employees. Most of the reporting companies voluntarily continue at least partial wages for part or all time lost on account of disability.

An important addition to the above-quoted total labor cost is the substantial expense of these supplementary benefits. Including social security, the larger companies now are carrying an indirect pay-roll

[1] Sidney A. Swensrud, vice president, Standard Oil Co. of Ohio, whose testimony appears in Hearings, Part 15.

cost of about 12 percent, which will increase to 15 percent during the next 10 years under the present laws affecting social security.

Dr. LUBIN. Mr. Anderson, in your second paragraph you are referring to time lost on account of disability, irrespective of accidents, are you not?

Mr. ANDERSON. Disability, either occupational or nonoccupational; yes, sir; and that, too, supplementing workmen's compensation insurance, which almost every employer must carry anyhow.

Mr. O'CONNELL. You refer to the 15 percent increase in indirect pay-roll cost during the next 10 years.

Mr. ANDERSON. It will increase to 15 percent.

Mr. O'CONNELL. Yes; from 12 to 15. Is that all attributable to legislation?

Mr. ANDERSON. That is the change in the contributions under the Social Security Act which are still to move ahead.

Mr. O'CONNELL. Will your contributions under the Social Security Act amount to 15 percent of your pay roll within the next 10 years?

Mr. ANDERSON. I didn't say that. I say that the present 12-percent overall cost of these indirect benefits will go up 3 percent when social security takes its full swing.

Mr. O'CONNELL. I understand, but is all of the 15-percent increase attributable to legislation?

Mr. ANDERSON. I say only 3 percent increase.

Mr. O'CONNELL. You drew your own inference from the statement indirect pay-roll cost will increase to 15 percent.

Mr. ANDERSON. From 12.

Mr. O'CONNELL. So only a portion of the 15 total increase is due to legislation.

Mr. ANDERSON. Only social security. We didn't count compensation insurance.

Mr. O'CONNELL. Some of it voluntary and some of it involuntary.

Mr. ANDERSON. I have just stated all of these things, starting in 1900, this sort of benefit coming about this year and then gradually spreading generally throughout the industry, and then another benefit, in fact, I pretty much cited them in their chronological introduction as you will note from one of the appendixes in my report.

Dr. LUBIN. Mr. Anderson, I am anticipating what you are going to say later in regard to safety. Have you any idea what workmen's compensation costs in terms of pay roll, in refining? You say you didn't include them in these supplementary benefits. How expensive an item is it in the industry?

Mr. ANDERSON. I say we haven't included them in those. Other than social security, these are benefits which are beyond legislative insurance which haven't been included in this bunch.

Dr. LUBIN. Workmen's compensation is an expense?

Mr. ANDERSON. Oh, yes.

Dr. LUBIN. And it is part of your pay roll in a sense. If you didn't employ the person, you wouldn't have to pay the insurance for him.

Mr. ANDERSON. I believe my questionnaire asked them to exclude that.

Dr. LUBIN. Have you any idea how the industry rates? Accident rates have gone down very fast, but in terms of your premium rate, is it high or low?

Mr. ANDERSON. That again is one of those questions to which you get diametrically opposed answers. Perhaps in our offices we have as low a rate as any industry. On the other hand, in rig building and drilling it is extremely high. May I ask if anybody can tell me how high the rates are in rig building? In the nature of 16 percent? They are extremely high because rig building in itself is quite a hazardous occupation, but in generalities they are not abnormal, and, of course, we are getting the benefit of a record of good practice in the determination of our reserves which happen to be set up under the usual manner in which we carry these policies.

Dr. LUBIN. I am very much interested in that problem because we hear so much talk about the cost of social insurance and so little about the cost of workmen's compensation, and in some instances workmen's compensation costs are so far in excess of social-security costs and you rarely hear any talk about them. I was interested to know whether it is a really important factor in your pay roll. That 16 percent—of course, there are a number of people in rig building, but taking the industry as a whole I wondered whether it would run, as an estimate, 2 or 3 percent of your pay roll, taking the industry by and large, say production, refining, and marketing.

Mr. ANDERSON. I am sorry to say I don't have that figure, but I will be glad to get it for the record by tomorrow.[1]

The industry has done much to improve social conditions as well as working conditions for its employees. Millions of dollars have been expended for housing employees in locations not adjacent to towns. Good houses and other facilities are provided at low rental rates. Schools, medical departments, emergency hospitals, registered nurses, etc., are provided by many companies in their centers of concentrated employment.

Petroleum has done an outstanding job in the field of accident prevention, greatly reducing the hazards peculiar to the industry through engineering and educational methods. Also unusual attention and assistance has been given to the prevention of accidents on the highways. A recent United States Bureau of Labor Statistics report states that the petroleum refining frequency rate decreased nearly 67 percent in the 6-year period, 1930–36, and that—

> there is a good reason to attribute this highly satisfactory experience to careful, continuous, and comprehensive safety work on the part of management in this industry.

Employers in the petroleum industry have always taken pride in the friendly and harmonious relations which have existed with their employees. The 5-day strike in St. Louis service stations late in 1933 was the first strike of any consequence recorded in the industry for 13 years. The second strike of the same group in 1934 was declared outlawed by the Government's Petroleum Labor Policy Board. According to the United States Bureau of Labor Statistics, the annual averages in refining for the 5 years 1933–37, inclusive, show that there was only one strike per 17,500 employees, with but 1.9 percent of all employees striking, and with less than 6–10 man-days per employee lost.

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[1] Mr. Anderson supplied the information in a letter dated October 25, 1939, which was marked "Exhibit No. 1422" and is included in the appendix on p. 9372.

This record is outstandingly low when contrasted to that of any one of several comparable industries. Today we find only two strikes, both in refineries, in progress. But one of these, involving only 250 men, is being disruptive to operations in the plant involved. Strikes in other branches of the industry have been even less in frequency and consequence than those in refining; in fact, until the recently concluded marine strike there have been practically none except a few scattered ones in marketing.

The achievements of the industry in harmonious labor relations reflect the continued, straightforward, and cooperative attitude maintained by both management and employees in dealing with their mutual problems. They have come from the simple expedient of recognizing through the years, without pressure, the right of labor to a fair share of the proceeds of business, by minimizing for workers the effects of economic cycles and seasonal demands, and by predicating employment policies on the rule that no organization or industry can rise above the condition of those who comprise it.

These forward-looking policies have been appreciated by a loyal and intelligent employee body, well aware of their preferment in the common effort to advance the standard of living. The combined effort and ingenuity of the industry's employees of all ranks have given the general public essential services, unselfishly conceived and faithfully rendered.

Acting Chairman WILLIAMS. Have you finished your statement?

Mr. ANDERSON. That is the conclusion of my summary of my filed statement.

Acting Chairman WILLIAMS. Have any of the committee any questions to ask? If they have, if they are of any length, we had better wait until tomorrow.

Mr. AVILDSEN. I have one question. In the fourth paragraph of the paper you just read under the heading "Volume of Employment and Pay Rolls," you speak here about the combined direct real wages or purchasing power provided by these companies in 1936 was 18.8 percent above that of 1929.

Mr. ANDERSON. Yes, sir.

Mr. AVILDSEN. I notice on this chart No. 2 it shows purchasing power was 25 percent above 1929.

Mr. ANDERSON. This is the condition with respect to the individual worker, whereas the figure of 18.8 percent was determined following the statement that the annual earnings—I mean the annual pay rolls in both years were almost exactly $420,000,000, and if we take 100 percent as our index of actual wages and divide that by 84 percent, which is the cost of living, we get 118.8 percent as the index of purchasing power. That is 18.8 percent above the combined 1929 money outlay of these larger companies on a strictly comparative basis. In other words, in summary, despite the difficulties with which we were faced through the depression, we have reestablished numbers of employees on our pay rolls to within 7 percent of 1929 levels; we have completely reestablished total annual pay-roll outlays to the 1929 level, and we have contributed to the purchasing power, taking account of the cost of living by increasing the 18.8 percent above 1929.

Mr. AVILDSEN. It still isn't clear to me why one figure should be 18 and one 25.

Mr. ANDERSON. That is because of the difference in the number of employees involved. In other words, we have only 93 percent of the number of employees to each 125 percent of their 1929 individual purchasing power.

Mr. AVILDSEN. That clears it up.

Acting Chairman WILLIAMS. Any other questions?

Mr. BERQUIST. Mr. Anderson, we have heard it said several times in this hearing that service-station operators after changing over to the Iowa plan from the status of being employees to that of independent operators, their earnings have been reduced because of the diminishing margins. I take it from what you have said that you do not agree with the statements that have been made here that as independent operators these filling-station men are not receiving as good an income as they were when they were direct employees of the companies.

Mr. ANDERSON. I am not aware of the sources of the other statements to which you allude, and I must plead my lack of direct knowledge in the matter, but I have cited this as the composite reply of seven large companies to a very specifically worded question which they were asked to answer. I have set down the seven replies individually and have averaged them numerically to get those figures, and that is all I can say with authenticity.

Mr. BERQUIST. The conclusion of that is the reverse of what we have been told by some of these witnesses. I just wanted to call that to the attention of the committee and also give you a chance to comment with anything you want to say as to statements of that kind. We had Mr. Crouthamel yesterday [1] and we had a witness here this morning, and I think several of the witnesses have alluded to that fact. Your response to that is that you do not agree with that position based upon your findings from those companies.

Mr. ANDERSON. Of course, in this particular respect I am only reporting the results of that questionnaire which was sent out. My personal knowledge of it is not very complete, because I am not in the marketing branch of the industry; but I think you must take account in this matter, as you must take account of so many matters where witnesses who have a relatively small compass in which to form their opinions ofttimes lead to conclusions which won't stand the test on a broad basis.

We must admit that even though a certain company in 1934 operated a thousand service stations and paid $239 per month on the average to each one of them, and had a schedule of monthly salaries for those employees so that in generalities each manager got, for an argument, $120 a month, and each second man got $105, and each third man got $95, regardless of where the station was or other conditions, and then consider the present condition in those thousand stations, where it can be truthfully said that the total amount available for the labor bill in those stations is substantially more than it was before, you will find that due to the difference in the location and the sales opportunity of those stations and the ability of the men on those stations to stimulate business for themselves, there is going to be quite

[1] P. 8934, supra, et seq.

a different spread in the distribution of that total earnings than took place under company operation.

Another thing, too, that you must consider, that taking the average station and giving the dealer the $260—was that the figure? They have taken these sheets away [1] and I am without benefit of clergy for the minute——

Dr. LUBIN. (interposing). $260.

Mr. ANDERSON. We will say the average dealer; that is, the man with whom the company has the business arrangements and made it possible for him to have in hand $260—is that it?——

Mr. AVILDSEN (interposing). Yes.

Mr. ANDERSON. He has in his uncontrolled discretion the distribution of those earnings between himself and any numbers of employees that he chooses to have, and it is not unlikely that in a great many instances he, perhaps, felt that, with all the business risk, and so forth, which he may rightfully feel that he is taking, he would like to keep just a little bit more of that $260 than he received as a salaried manager, and the employees on his station might thereby get less per individual than before, and there are 101 individual variations of that type of thing which could cause a local complaint, perhaps justified within the point of view of the individual, that still should not in any way lead to the conclusion that on the over-all basis this was done as a means of trying to avoid a social obligation.

And when we hear complaints that some of these things don't work out in some small area, local conditions there may at least for a time make the going hard, yet on the over-all picture the condition may be quite sound. It is just the same condition that we found in operating under the codes with respect to our labor complaints that came in. Most of the complaints were rather insignificant in their nature and could be cleared up with an informal contact with the employer, and while the sum total of them seemed like a great deal, still the over-all run of the larger employers, their treatment of their employees, was pretty healthy.

Mr. BERQUIST. Would you agree with this, then—a shrinking distributing margin is a greater threat now to an operator; that is, he has the prospect of bearing the brunt of such shrinkage, whereas before that was not true, so that he is now very vitally dependent upon the maintenance of a price or the maintenance of a margin, and when those margins fail to be realized, that obviously is going to affect the wage bill or the wage payments that may be made out of that branch of the industry?

Mr. ANDERSON. Out of his station or out of his little area?

Mr. BERQUIST. Out of stations generally.

Mr. ANDERSON. I don't believe that these margins vary country-wide in any direct movement. They are up and down in certain locations, due to conditions which are relatively local, and they are not always permanent.

Mr. BERQUIST. He has a real stake, though, in the maintenance of prices and the maintenance of margins much greater than he had before, and he is much more dependent upon their maintenance in terms of his livelihood than he was before.

Mr. ANDERSON. Yes.

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[1] Copy from which Mr. Anderson read was handed to the official reporter.

Mr. BERQUIST. He has assumed a real element of risk there, has he not?

Mr. ANDERSON. He has, perhaps, been required to take a greater element of responsibility.

Acting Chairman WILLIAMS. Are there any further questions? If not, Mr. Anderson, we are indebted to you for your appearance here. It has been most instructive, and we thank you.

Mr. ANDERSON. I thank you for the opportunity.

(The witness, Mr. Anderson, was excused.)

Acting Chairman WILLIAMS. The committee will have tomorrow Mr. Hewett and Mr. Hartley for the first witnesses, and perhaps some additional witnesses to be announced later.

The committee will now stand in recess until 10:15.

(Whereupon, at 5:05 p. m., a recess was taken until 10:15 a. m. of the following day, October 12, 1939.)

INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

THURSDAY, OCTOBER 12, 1939

UNITED STATES SENATE.
TEMPORARY NATIONAL ECONOMIC COMMITTEE,
Washington, D. C.

The committee met at 10:45 a. m., pursuant to adjournment on Wednesday, October 11, 1939, in the Caucus Room, Senate Office Building, Senator Joseph C. O'Mahoney presiding.

Present: Senator O'Mahoney (chairman), Representative Williams, Messrs. O'Connell and Brackett.

Present also: Quinn Shaughnessy, representing the Securities and Exchange Commission; William T. Chantland, representing the Federal Trade Commission; Clarence Avildsen, representing the Department of Commerce; Representative Disney (Oklahoma); W. B. Watson Snyder, Hugh Cox, F. E. Berquist, Christopher Del Sesto, special assistants to the Attorney General; Leo Finn and Roy C. Cook, Department of Justice.

The CHAIRMAN. The committee will please come to order.

We are to have the testimony this morning of Mr. A. W. Hewett, president, and Mr. L. A. Hartley, secretary, of the Petroleum Retailers Association, of Kansas City, Mo.

Do you and each of you solemnly swear that the testimony you are about to give in this proceeding shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. HEWETT. I do.

Mr. HARTLEY. I do.

TESTIMONY OF A. W. HEWETT, PRESIDENT, AND L. A. HARTLEY, SECRETARY, PETROLEUM RETAILERS ASSOCIATION, KANSAS CITY, MO.

INTEREST AND OBJECTIVES OF PETROLEUM RETAILERS ASSOCIATION

The CHAIRMAN. Mr. Hewett, will you give your name to the reporter?

Mr. HEWETT. A. W. Hewett, Kansas City, Mo.

The CHAIRMAN. You are the president?

Mr. HEWETT. President of the Petroleum Retailers Association.

The CHAIRMAN. What is that association?

Mr. HEWETT. That is an association of retailers, bona fide retailers, engaged in the retailing and sales of petroleum products and their correlated products, and accessories.

The CHAIRMAN. What sort of retailers? Any subdivision of retailers?

Mr. HEWETT. No; no subdivision at all. To be eligible you must be a retailer of petroleum products.

The CHAIRMAN. How many retailers?

Mr. HEWETT. Our association has a membership roll of approximately 460 at the present time.

The CHAIRMAN. How long have you been president of it?

Mr. HEWETT. I have been president since a year ago March—March 1938.

The CHAIRMAN. How old is the association?

Mr. HEWETT. The association is 4 years old.

The CHAIRMAN. What area do you cover?

Mr. HEWETT. The territory covers Greater Kansas City and surrounding areas; that is, border lines, suburban towns.

The CHAIRMAN. This is a trade association?

Mr. HEWETT. It is a trade association.

The CHAIRMAN. Incorporated?

Mr. HEWETT. We are incorporated as a nonprofit organization under the laws of Missouri.

The CHAIRMAN. Is there any other statement with respect to the association or your own personal relation to the petroleum industry that you want to make?

Mr. HEWETT. Individually, aside from the association activities I happen to be a college graduate in the retailing business.

The CHAIRMAN. What college?

Mr. HEWETT. University of Kansas. The first 5 years as an employee of the Standard Oil Co. of Indiana in the retailing division of the Kansas City district; part of the time on the station as an attendant; about 1 year's time on certain special work; better than 1 year as supervisor of service stations in the Kansas district of the Kansas City field; the next 6 years as a leased and agent operator handling Standard Oil Co. of Indiana products; for the past 5½ to 6 years operating a semi-independent that I lease from a landlord—a private landlord—and operate under a sales agreement handling the products of the Texas Co.; for the past 4½ years I have had a partner in this last engagement.

The CHAIRMAN. Do you now represent, do you sell the Texas Co. products?

Mr. HEWETT. I do.

The CHAIRMAN. Are you a divided or an undivided retailer?

Mr. HEWETT. We have only three divided stations in Kansas City. They happen to be——

The CHAIRMAN (interposing). When you say "we," whom do you mean?

Mr. HEWETT. In the whole area.

The CHAIRMAN. You didn't mean your partnership?

Mr. HEWETT. No. In the whole area of Kansas City there are three divided stations. These happen to be at the service stations of the Firestone Tire & Rubber Co.

The CHAIRMAN. Yours is not then——

Mr. HEWETT (interposing). Ours is 100 percent, so far as gasoline is concerned.

The CHAIRMAN. Mr. Hartley, would you be good enough to give your statement, your background?

Mr. HARTLEY. As it relates to this industry?

The CHAIRMAN. Yes, sir. How long have you been secretary of this association?

Mr. HEWETT. Mr. Hartley was engaged by the board of directors of this association January 1938.

Mr. HARTLEY. Prior to that time I was with the Automotive Trade Association as field secretary for 4 years. The Automotive Trade Association has garages and other outlets and also handles gasoline and oil, and all the other products that a filling station would handle.

The CHAIRMAN. What were your duties as field representative of the trade association?

Mr. HARTLEY. To go directly to these outlets and survey them and contact them, and also help them in merchandising.

The CHAIRMAN. Yours was trade association work.

Mr. HARTLEY. That is right.

The CHAIRMAN. How long have you been engaged in that?

Mr. HARTLEY. Well, 4 years there, and I think it is a year and a half here, isn't it?

Mr. HEWETT. A little better than that.

The CHAIRMAN. What was your business before that time?

Mr. HARTLEY. Oh, I have had various engagements of different kinds, that happened to demand my abilities.

The CHAIRMAN. I understand that you are to make the first statement for this group.

Mr. HARTLEY. I would like, if I might, to call attention to two errors appearing in this mimeographed statement. They were not errors by the mimeographers but by ourselves. One is in paragraph 18, page 3, the fourth line from the bottom should be changed, the word "April" in "April 14" should be changed to "March 14."

In paragraph 24, page 4, third line from the bottom, the two words "as many" before "monopolies" at the end of the line should be changed to "one more" instead of "as many."[1]

The CHAIRMAN. No other corrections?

Mr. HARTLEY. That is all.

The CHAIRMAN. The statement as corrected may be received for the record.

(The prepared statement of A. W. Hewett and L. A. Hartley was marked "Exhibit No. 1265," and is included in the appendix on p. 9305.)

The CHAIRMAN. All right, Mr. Hartley, if you will be good enough to proceed.

Mr. HARTLEY. I would like, if I may be permitted, to mention the scope of the association interest as having been illustrated by reports of studies as they appear on page 7 of the book entitled "Consumer Incomes," published by the National Resources Committee. That is the scope of the interest of this association.

This association has as a dues-paying member the United Cooperative Association, a consumer cooperative with about 1,200 members, so our interest embraces not only the retailers but the consumers, very definitely. In that connection, there are going to be, sure to be, appearances of inconsistencies in our testimony, and it is only fair to us,

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[1] The corrections have been made in the exhibit.

I think, that we call attention to the fact of our connections before we begin so that those inconsistencies will not appear.

Quite naturally, under the present profit system, as it is operated in the United States, there is bound to be a conflict of opinion between consumer interest and retail interest, and we have tried to harmonize that as much as possible, and we are going at times to appear to be directly opposed to the retailer interest, because the consumer interest must be protected and must be developed.

In that connection, we prefer very much not to be classified as persons who might be interested as Santa Claus or somebody like that in giving the people something. We are just trying to live in a real world, and we have consumers to whom we are deeply obligated and we must reflect their interests.

In that connection, also, I would like to call attention to the fact that, so far as I know, we are the first witnesses who have appeared before this committee who have been bona fide representatives of consumers. I also have gathered that the objective of this committee is a consumer objective.

It has been a marvelous experience to observe the work of a committee.

We thought about preparing charts for you, and some of these charts that have been presented by Mr. Wilson appealed to us very much. When we attempted to give an accurate representation on a chart of the number of persons involved on our side and the number of persons involved on the independent oil company men's side, and then on the major oil companies' side, we found if we made an accurate representation we couldn't get our chart into this room, and we finally found out that it would quite top the Washington Monument if we made the major oil company volume of human representation only 2 inches high.

Then we thought that an obtuse triangle might represent it, and, of course, if you just try that a little while you will find that the two sides of an obtuse triangle can't be made short enough to illustrate that point.

In a way that also illustrates the feeble gesture that we are making here this morning. I have had rather reliable estimates given to me of the expense to the major oil companies of their appearance at these hearings. I don't know how accurate those estimates are, but they are given by persons who might know, and it has been estimated that their total expense for all the research that has been ncessary—and I can easily understand how it might be—runs something like $500,000.

A reliable estimate has been given to me by Mr. Hadlick of the expense of the independent oil people, who are another side of the triangle, of $5,000.

We rented a cheap room in a cheap hotel and rented a typewriter for 2 weeks. We hope we don't have to use it 2 weeks and can get a $2 rebate on it.

Now, the comparison of power before these hearings compels us to believe that our effort is going to be entirely futile.

The next thing that I would like to bring to your attention is the consumer-retailer view of previous testimony. I trust that I may bring this, and, if I am wrong, you will remember that I am eager to be corrected.

All prior testimony before this committee, with the exception of two brief testimonies, has been in support of contentions of one side or the other—either the independent oil men or the major oil companies—the major oil companies contending to preserve their huge profits; the independent oil companies contending to get a part of them; and so it seems to us that the true objective of consumer interest has been somewhat neglected by the testimony. As the interrogation has proceeded from the committee, this neglect of consumer interest has been relieved considerably, especially from the chairman and the others.

INCOMES RECEIVED BY FILLING-STATION OPERATORS IN KANSAS CITY AREA

Mr. HARTLEY. Now, we will have to inject another angle into our testimony. We return just for a brief second to page 7 of Consumer Incomes, in which the fact is related that one-third of the American people receive less than $760 a year—one-third of the American people receive less than $760 a year!

We are going to try to prove that we are in that class.

We can prove it and we would like to submit that it is the fact with reference to certain oil-company station operators. Would it be all right if I ask the president to take care of this particular item?

The CHAIRMAN. Certainly.

Mr. HEWETT. This happens to be one of our members who did not put any restrictions on using his name—one of the few that didn't fear the results of possibly using his name in this connection.

The CHAIRMAN. You say one of the few?

Mr. HEWETT. One of the few.

Mr. HARTLEY. I would like to explain there Mr. Chairman, if I may, that when I was asked to come before this committee I had great difficulty in finding actual filling-station operators who were willing to appear before any hearing. Out of all our membership in the greater Kansas City area, I could find but three who were unafraid. Mr. Hewett is one, and this young man, here quoted, is willing to let his name be used, but there are very, very few.

Mr. HEWETT. Fear of reprisals.

The CHAIRMAN. Do you mean to say that you received instructions from many of your members, or statements from them, that they didn't care to appear or didn't care to have their names used?

Mr. HARTLEY. Not only didn't care to but they were afraid to; that their leases would be taken from them—their future would be jeopardized.

Mr. HEWETT. This is more or less typical of operations of major oil-company filling stations in Kansas City. It is a neighborhood station, located at Meyer Boulevard and Prospect Avenue, which is in the middle class residential district, not the country-club area, and not what we term the "north end."

The company supplying is the Standard Oil Co. of Indiana. The name of the lessee, Ray Crowley. The date of record, October 1 to 31, inclusive, 1938. He bought from the supplier at cash prices. Total gasolines, motor oils, accessories, tire-repair supplies, lubricating greases—total amount of $423.27. He was at that time selling at 4½ cents gross margin—retail margin—a half cent was collected by

the supplying company as rental, which incidentally is the lowest rental I know of in Kansas City on these stations. On his Red Crown gasoline he sold 2,195 gallons at 4 cents—that is, after the reduction of rental—4 cents gross retail profit; Solite Ethyl gasoline, 416 gallons, at 4½; Stanolind gasoline, 181 gallons, at 1.64, which was the prevailing margin on third-grade gasoline at that time. Oil sales, 34 gallons; accessory sales, $15.92; and tire repairs, $4; lubrications, $15. That was total assets.

The amount of gross retail profit was $87.80 on Red Crown Gasoline, $18.72 on Solite Ethyl, $2.97 on Stanolind Gasoline, $15.16 on lubricating oils, $3.98 on accessory sales, $3 on tire repairs, and $12.90 on lubricating receipts, making a total gross profit of $144.53.

He listed his station expense, light bulbs, $1.08; electric service bill, $11.63; telephone service, $3.88; distillate for heating, $3.47; water service, $1.50; insurance for the station, stocks in the station, $1.50; laundry for the station, $4.43; toilet paper, 60 cents; taxes for the month, $6.50; making a total of $34.49.

Wages paid to helper, $20; paid on equipment note, $25. That might call for a little explanation there. It might be common belief that these stations are leased with all equipment ready to go in and do business. They are not. I have personally had as much as $900 invested in equipment. This was mostly lubricating equipment, battery recharger, battery service kit, or other equipment of that nature, which when he leaves the station has practically no value to him.

Expense of items carried forward from these other expenses, $34.49, making a total of $79.49.

Total gross retail profit, $144.53. Expenses, supplies, and wages, exclusive of salary for himself, $79.49. Profit for the month, or that from which he must get his salary, $55.04.

This station is a three-drive station with two islands of pumps on a prominent boulevard and a prominent street. It is not a little station, it is not a big station in gallonage.

Hours worked: The operator worked 372 hours.

This is the explanation that he put underneath:

> Two young men operate this station—

In his own words:

> One is employed part time elsewhere. His partner was recorded in this report as a helper who was paid $20 a month. He worked on this station when the regular operator had to leave the job. He worked about 100 hours during the month. The station was open to the public 15 hours daily every day in this month. Retail prices for this station do not represent prices in other Kansas City filling stations. Standard Oil repeatedly tried to get this lessee to reduce his gross retail margin of profit. Standard Oil delivery truck carried discount signs to this station and the driver tried to get the lessee to accept the signs to be displayed.
>
> This lessee has announced his conviction that he will be denied a lease renewal. He has been employed or serving as a lessee in the Standard Oil station for several years.

Now we note that his actual time put in was 372 hours and he received 14.8 cents per hour for that time. His coworker or helper that he paid $20 for working 100 hours received 20 cents per hour.

Mr. HARTLEY. May I contrast that with the hourly compensation testified to by Mr. Robert Wilson of the Pan-American, of 97 cents an hour.

Representative WILLIAMS. I notice he was called a lessee.

Mr. HEWETT. He was a lessee.

Mr. HARTLEY. He is a lessee.

Representative WILLIAMS. How much rental did he pay?

Mr. HEWETT. A half-cent a gallon.

Representative WILLIAMS. His rental was taken out of the price of the gasoline?

Mr. HEWETT. His rental is added to the tank wagon price of the gasoline; he pays the tank-wagon price plus one-half cent a gallon, and it was collected for at time of delivery of the gasoline.

Representative WILLIAMS. That figure is in the total amount he received.

Mr. HEWETT. That is right.

Representative WILLIAMS. I noticed you didn't separate it and I was wondering where his rental came in.

Mr. HEWETT. A half-cent was paid at the time of delivery of the gasoline, which was added to the invoice of tank-wagon deliveries. I will say this at the present time, just in this connection, personal experience, facts of my own operation: For the year 1938 my partner and I operated another unit, I believe I am safe in saying the finest one-stop unit in Kansas City, and exclusive of salary to us during 1938, the net yield was five-hundred-fifty-six-dollars-and-some-odd-cents.

The CHAIRMAN. What was the salary?

Mr. HEWETT. Well, what I could get. My salary depended naturally upon my needs for living, and had to be derived partially——

The CHAIRMAN (interposing). My point is that unless you state what your salary was, the committee doesn't know how much you received, and the point of your testimony is to indicate what you received. You are telling us that after your salary was paid and after all other expenses, your net was this sum of five-hundred-plus.

Mr. HEWETT. That was a little confusing. Before my salary was paid to myself or partner, there was only $556.

The CHAIRMAN. I didn't get that impression.

Mr. HEWETT. The actual loss——

The CHAIRMAN (interposing). You mean to say your salary and your partner's salary had to be paid out of $500 net.

Mr. HEWETT. So far as this unit was concerned. We still operated the other unit which had to make up the difference in our salaries.

The CHAIRMAN. Then that doesn't necessarily bring you into the $760 class yet, does it?

Mr. HEWETT. No; we were way below that last year.

The CHAIRMAN. On both units?

Mr. HEWETT. Yes.

The CHAIRMAN. And both units combined?

Mr. HEWETT. Frankly, I might be permitted to say, my loss for the year in operations was approximately $3,000 on two units.

The CHAIRMAN. Is this condition which you describe, as illustrated by the instance of Mr. Crowley, typical of retailing in your district?

Mr. HEWETT. I would say it is typical. There are some of them making approximately a dollar a day. There is the other extreme of good wages. I would say there are a few stations in Kansas City that might be making $2,500 a year profit, to be used as salary for paying the operators.

The CHAIRMAN. Well, then, what can you say about the amount of gasoline and other petroleum products which you sell? Is that too little? Could you sell more? Is it below the capacity of your station?

Mr. HEWETT. They are all of them below their capacity. We have a peculiar situation in Kansas City, I think, in comparison to other districts. The fact is, within the city limits of Kansas City we have more station retail outlets than there are in the District of Columbia, and a much less population.

The CHAIRMAN. Well, if you sold more gasoline and petroleum products, you would have a higher net income, would you not?

Mr. HEWETT. Well, if all of us sold lower, there would only be so much sold.

The CHAIRMAN. I don't say if you sold lower; I think I said if you sold more.

Mr. HEWETT. Oh, yes.

Mr. HARTLEY. If I may answer that question, so far as I have been able to discover, in Kansas City and in personal investigations conducted in Kansas, Missouri, Illinois, Indiana, Iowa, Ohio, Pennsylvania, New Jersey, New York, Maryland, and the District of Columbit two different times, for purposes of careful comparison, this particular example would cover the average neighborhood station.

The CHAIRMAN. Well, now, to what do you attribute this condition?

Mr. HARTLEY. May I answer one other question that is involved in that former thing?

The CHAIRMAN. Yes.

HANDLING OF GASOLINE AS "LOSS-LEADER" ITEM BY RETAILER

Mr. HARTLEY. As far as the sale of gasoline is concerned, there is no more profit to the average filling station operator in selling gasoline than there is in giving free air. Is that right?

Mr. HEWETT. That is substantially true. The profit from the sales of gasoline will not anywhere near pay the operating expense of the station.

Mr. HARTLEY. Gasoline is carried in most filling stations as a loss-leader item, and it has been openly advocated by various major oil-company officials that that be done, that gasoline be carried as a loss leader. It has been advocated in Kansas City; it was advocated by the manager of the metropolitan area district for the Shell Petroleum Co. in a meeting which he addressed in New York City last year.

Mr. CHANTLAND. From what are you to get your profits, then?

Mr. HARTLEY. Oil, grease, and services, and various other things. Mr. Hewett makes whatever he can from tires.

The CHAIRMAN. Returning, then, to my question, to what do you attribute this condition?

Mr. HEWETT. I would say the pressure exerted. I am making a general statement for all stations. This particular station's margin does not apply to all of them. Some of them are a half-cent margin, some of them a penny, some of them 2 cents. There has been tremendous pressure exerted on the operators to get volume of business. I know personally of a good many operators in Kansas City who were told flatly that unless they increased their volume of business

through their station they would be denied renewal of lease. I know not only occasionally but on various times——

The CHAIRMAN (interposing). How does that pressure affect the profit?

Mr. HEWETT. It decreases the margin. The salesmen or the representative or supervisor will urge the operator to be competitive. "There is so-and-so across the street or down the street. He is selling gasoline at 2 cents under you, or 3 cents under you. You must increase the volume in this unit of distribution or we will have to find another outlet. Be competitive, meet his price, and get the business."

The CHAIRMAN. And meet the price out of the margin?

Mr. HEWETT. Out of the margin of the outlet.

Representative WILLIAMS. Are all these stations lessee stations?

Mr. HEWETT. No; that follows a little later in our statement.

Mr. HARTLEY. Answering that question, 60 percent of them in the Kansas City area are directly leased stations.

Representative WILLIAMS. You are in direct competition with the independently owned station, aren't you?

Mr. HARTLEY. The actual figures as assembled by, I think, Mr. Shafner, were: 57 percent of the stations and outlets in Missouri are directly controlled and owned my the major oil companies, 22 percent by jobbers who are suspended from the major oil companies, and the rest of them by independents.

Representative WILLIAMS. You don't think it would make any difference if you sold 1,000 gallons a day instead of a hundred?

Mr. HARTLEY. Yes; we have made cost studies of stations and we will have to admit that as your volume goes up there is a point finally reached, it is up around 10,000 gallons, which few stations achieve, when you begin to make a little bit of money, and as you go forward, if you can keep your expenses down proportionately, you can make money, but unfortunately you have to hire more men to put the gas in the cars.

Representative WILLIAMS. You don't think a reduction in the number of stations in that area would help the matter?

Mr. HARTLEY. It would greatly help us but it wouldn't help the consumers very much. There is where our relationship becomes complicated. The consumer wouldn't benefit.

Representative WILLIAMS. From the standpoint, it seems to me, of the owner and operator of the station, if there is an overbuilt situation there it might be their fault.

Mr. HARTLEY. Absolutely correct; there isn't any question about it. I question seriously—Mr. Hewett wouldn't do it; his loyalty to the Texas Co. is naturally a very substantial thing—but I would question and I think a great many members of the Association would question whether the Texas Co. ever had any good reason to build a station where he went broke.

DIFFICULTY OF PROTECTING INTERESTS OF BOTH RETAILER AND CONSUMER

The CHAIRMAN. Well, what about the price of gasoline? Is that not high enough, or is it too high to the consumer?

Mr. HARTLEY. We think it is too high to both consumers and retailers and we would like to maintain in our testimony, if it is permitted to inject it, that the place to get the reduction is not from the

margin of the retailer. We knew where some of that decreased cost of gasoline came from. It came out of the margin to the retailers, and off their tables in their homes. We knew that.

I would say that we believe it ought to come, somehow or other, from the tank-wagon price, from this huge profit that was revealed here the other day by Mr. Hadlick. We believe that somehow or other some of that should go to the consumer and the retailer, and we believe that there is plenty piled up there and I think we can prove it, that prices are far too high.

I would like to give one more answer to the question you directed to Mr. Hewett, that is, to the couse of all this.

Our board very carefully went into the cause of these things, what is the matter with them, and we believe that it is the whole concept of business as it is now conducted in the United States where an unlimited profit is accepted as a divine right.

The CHAIRMAN. Well, what recommendation do you make?

Mr. HARTLEY. We have got that down at the close of our statement.

The CHAIRMAN. All right; proceed. We won't interrupt.

Mr. HARTLEY. I do want to point out in passing, if I may, that we have been what we considered to be reliably informed by persons who were connected with the allocation of the charts that were presented here, that the American Petroleum Institute prepared those charts for the various major oil companies who used them, that the American Petroleum Institute prepared the charts that were used by the Pan-American and they were also the same charts—not the same charts but charts in the same group, prepared by the American Petroleum Institute—used by the Standard Oil of Ohio. We were informed by a person who delivered the charts to this room that the cost of those charts, the physical preparation of those charts, was something like $50 apiece. Back of that, of course, is an enormous expenditure.

The CHAIRMAN. Of course, this committee may be responsible in a way for that expenditure, since we invited them to present the material.

Mr. HARTLEY. I wasn't calling attention to the expense. I had already previously called attention to the $500,000. It is the fact that the major oil companies jointly used the American Petroleum Institute for such services.

Apparently Mr. Hadlick didn't have that opportunity, and certainly we didn't. We are not members of the American Petroleum Institute; however, we are not entitled to be.

The CHAIRMAN. However, you have your opportunity now to present your case.

Mr. HARTLEY. That is right; but I did want to call that to the attention of the committee.

We would like to indicate the agencies to be used to influence public opinion and an indication of the intention by the integrated oil companies to create an over-all industrial atmosphere. That is one reason I called attention to the charts. Every bit of the presentation, the direct presentation of Mr. Swensrud, most of the direct presentation of Dr. Wilson, was given as the achievement of the industry. It seems to be a definite plan, and our experience in the past through the filling stations in handing out propaganda that is handed down to

the filling stations by the major oil companies is that it is to create a sort of over-all atmosphere. Whatever has been achieved by the industry for the benefit of humanity and for the good of the Nation has been achieved by the industry. That is a modest assertion. Whatever threatens the industry naturally threatens the major oil companies.

I would like to call attention to a few indications, then.

I have here a paper read before the session of public relations at the ninth midyear meeting of the American Petroleum Institute at the Roosevelt Hotel in New Orleans, La., May 18, 1939, by Mr. H. A. Inness Brown. The paper is entitled "Dealer Relations From the Dealer's Point of View." Now, Mr. Brown is entitled to speak upon that subject, because he is not only a member of the board of the National Association of Petroleum Retailers; but he also publishes a newspaper which is highly utilized by the major oil companies in advertising—the Gasoline Retailer. Mr. Brown is not only a member of the board of the National Association of Petroleum Retailers but he also has been made a life member of the board. He goes to this American Petroleum Institute with several suggstions—and I would like to read a few of those—assuming to represent the retailers of the country.

He says, "The dealers serve the industry." Again we have the overall atmosphere. "Indeed, the dealer through his personal contact with his customers is the"—and he has this in bold type—"only means that many companies in the industry have of presenting their story, and incidentally, in spite of criticism he does an excellent job of it: The fact that the dealer in the oil industry serves more than"—he has "2,700,000,000 buyers of gasoline"—I don't see how there could be that many in this country, but that is beside the point—"and automotive services every year without noticeable complaint or trouble speaks well for the service ability of thousands upon thousands of dealers and their employees who carry on this gigantic distributing job. The first problem," he says, "is the widespread misconception"—in dealing with these dealers and helping to understand them much better—"the widespread misconception on the part of the dealer as to the make-up and service of the industry. The second problem is the invasion of the retail field by agitators and radical leaders who hope to upset its business structure. The third problem has to do with the political aspect of the industry which makes itself known by investigations, legislation and legal action in the courts. I should like to discuss these problems briefly," and then he discusses them briefly. "Dealers' misconceptions."

The CHAIRMAN. Are you adopting these statements as your own?

Mr. HARTLEY. Oh, no; oh, my, no! I am calling attention to the thing that is advocated before the major oil company representatives at the American Petroleum Institute meetings by a man who is the representative and a life member of the board of the National Association of Petroleum Retailers.

The CHAIRMAN. Do you want to quote Mr. Brown in order to controvert his statement?

Mr. HARTLEY. Yes; we are trying to controvert these statement.

The CHAIRMAN. Of course, these statements were not made before this committee.

Mr. HARTLEY. That is right. Are they unacceptable here?

The CHAIRMAN. Of course——

Mr. HARTLEY (interposing). We are offering it as an exhibit.

The CHAIRMAN. I don't want to shut you off, but I think the committee would be much more interested in your own testimony and your own point of view rather than a debate that you may want to state between yourself and a gentleman who isn't here.

Mr. HARTLEY. We don't want to debate this association. We are offering this as evidence, as an indication——

The CHAIRMAN (interposing). Of course, all this material is available to the committee, speeches that have been made and articles that have been written; we all know that. I think it would conserve the time of the committee if you would state your own case and express your own views about that, we are quite willing to have you express them.

Mr. HARTLEY. I couldn't express it as well as he does here; I just couldn't; I would wander around here. I know my own inability; I would wander around here and wouldn't get anywhere. I would like to tell you this thing went out to all the filling stations of the country and it will be fed through the filling stations to the customers. It is the type of propaganda that we have to distribute.

It goes on to say:

> Some of those misconceptions are that the Rockefeller interests still dominate the oil industry and are the cause of much of its difficulty; that the industry is slowly but surely growing into a monopoly; that a few men in the industry own, control, and dominate its policies.

In other words, that he proposes to be the aim of the National Petroleum Retailers Association, to controvert such misconceptions.

Now, the next thing I would like to submit as an indication of this tendency to create an over-all atmosphere, an over-all industrial atmosphere, is a copy of an editorial appearing in the Kansis City Star, following the oil-well shut-down. The Kansas City Star is located at the front door of the great oil fields of the Southwest, and being a great liberal newspaper it is naturally widely quoted in the East. Quoting from this editorial published in the Kansas City Star of Wednesday, August 18, 1939, the aims of the shut-down are clearly announced according to the view of an editor of a leading newspaper of the oil-producing section:

> The object of the shut-downs is to prevent the oil industry from being shattered by general price riddling. Many independent operators charge that the big companies have been reducing their stocks for some time in preparation for the cut, with the idea of replenishing supplies with cheap oil. On the other hand, the refiners point out that they cannot sell the products from a barrel of oil for as much as they pay for the original crude.
>
> Whatever the merits of this dispute—

Continues the editor—

> the action in the Mid-Continent field, which will hold off the market the production of 2½ million barrels of petroleum a day—37½ million in 15 days—will have an appreciable effect on the inventories, and it is hoped will cause a price increase in gasoline and other refined products sufficient to make possible the continuance of crude prices existing before the recent general dislocation of the market. These prices apparently are necessary if the industry is not to go broke.

The point that I have been trying to make throughout all these readings is that there is an over-all industrial atmosphere deliberately

being cultivated by the oil companies and the subsidized Kansas City Star—and the Kansas City Star receives very heavy advertising from the major oil companies. I am not charging the editor of the Kansas City Star with having deliberately injected a false note. I want to be clear on that question. It is just a matter of reading the stuff that is passed out.

All of these things that are being submitted here by the major oil companies will be republished and distributed by these same major oil companies to all the newspapers and to all the filling stations of the country to be passed out to customers.

Representative WILLIAMS. Do you agree with that statement, that that was the reason for the shut-down?

Mr. HARTLEY. No; not at all.

Representative WILLIAMS. What is your explanation of it?

Mr. HARTLEY. I think the shut-down—I hadn't any intention to get into that question but in answer to your question, Congressmen, I would say it is our belief that the shut-down was deliberately stimulated by the major oil companies, following the Sinclair attempt at leading the major oil companies in a price rise in 42 States on June 14, to prepare the minds of the public with a sympathy dodge for the poor little producer. I think that is reflected in this editorial—for the poor little producers. They were in straits, although the major oil companies have been shown not to be in straits, but the poor little producers needed more money so the price of gasoline had to come up to the people, and the shut-down was an effective way of calling attention on page 1 of all the newspapers in the country to the straits in which the producers of the oil fields had fallen.

Now I would like to read a report published in the Kansas City Star of August 14, just 2 days before this editorial was published—it was a report from the Associated Press on earnings of the Standard Oil of Indiana—just to prove that the over-all atmosphere reflected in the editorial is not a true reflection. "After depreciation"—I am quoting—"depletion and all other charges, and after providing for all Federal income taxes"—end of the quote—Standard of Indiana admitted earning net profits of $14,979,693 during the first half of 1939. Huge salaries and bonuses to favored stockholders and officials were all cared for before this melon was handed down to less favored stockholders. Superprofits from pipe lines, fictitious freight overcharges——

The CHAIRMAN (interposing). Are you now reading?

Mr. HARTLEY. I am making my own statement now. I very carefully said "end of the quote." But you understand we are close to the oil fields and we are close to the pipe lines and we have made a study of them.

Superprofits from pipe lines, fictitious freight overcharges, and patents were diverted to other channels and did not show on the Standard of Indiana report. Numerous specially chartered corporations assured other diversions.

I would like to call attention to some of this over-all atmosphere in this propaganda that is shoved down through the filling stations by the National Association of Petroleum Retailers. I am reading here from a publication of August 5, 1937, on the letterhead of the national association, which we consider a subsidized unit. It has

been brought out in a congressional hearing that they are not truly representative of the great number that they say they are. I can cite that hearing if you care for it.

This was on the subject of cooperatives. You understand that we have a cooperative member.

Mr. SHAUGHNESSY. Is that Mr. Cowden's company?

Mr. HARTLEY. That is not Mr. Cowden's company. Mr. Cowden doesn't own any cooperative. Mr. Cowden is manager of the Consumer's Cooperative Wholesaler of North Kansas City. This is the United Cooperative which is associated with the company with which Mr. Cowden is associated.

Mr. SHAUGHNESSY. But he obtains the gasoline for the cooperative.

Mr. HARTLEY. He does; yes; as a wholesale unit, but our member is a retail unit.

Mr. SHAUGHNESSY. Does this cooperative operate filling stations or does it sell to others?

Mr. HARTLEY. It operates filling stations of its own.

Mr. SHAUGHNESSY. On a patronage-dividend basis?

Mr. HARTLEY. Yes, sir; under the Rochdale plan.

Mr. SHAUGHNESSY. And those compete with other filling stations that sell the products of the major companies?

Mr. HARTLEY. Yes; right next door.

Mr. SHAUGHNESSY. So they post the same price.

Mr. HARTLEY. Yes; they do. One Rochdale principle of cooperation in industry is to sell at the market price.

Mr. SHAUGHNESSY. Therefore, there is also a discount in favor of cooperative station as against the major company stations.

Mr. HARTLEY. In the dividends they return to their consumers; yes.

Mr. SHAUGHNESSY. Do you know what the average dividend on gallonage basis is?

Mr. HARTLEY. No; I couldn't say that.

Mr. SHAUGHNESSY. Would it be as much as 2 cents?

Mr. HARTLEY. No; I don't think so. I am just guessing on that but I don't believe it would be.

Mr. SHAUGHNESSY. Does the cooperative pay salaries?

Mr. HARTLEY. It pays salaries; yes.

Mr. SHAUGHNESSY. Have you any idea what the salaries are?

Mr. HARTLEY. No; I couldn't give it to you accurately and I wouldn't try.

Mr. SHAUGHNESSY. Are they more or less?

Mr. HARTLEY. Much more. One of the cooperative boys took me to a country club dinner one night and Mr. Hewett couldn't do that well. He took me to the Blue Bell.

Mr. SHAUGHNESSY. Do you think the presence of the cooperatives in the Kansas City area has any effect upon the dealers' margins that he passes on to Mr. Hewett?

Mr. HARTLEY. Only in Clay County.

Mr. SHAUGHNESSY. Of course, they are right side by side.

Mr. HARTLEY. In Clay County only. They don't come into Kansas City, Missouri.

Mr. SHAUGHNESSY. But that leads to depression in the price. You can't have a depressed price in one area and a higher price in another without some effect.

Mr. HARTLEY. Mr. Hewett managed to keep a higher price by being good to his consumer. He sells at a little higher price than the next-door man. They have a Barnsdall station next door but they have had 22 Barnsdall men there in as many months, haven't they?

Mr. HEWETT. It is 2 months now since the last one came.

Mr. HARTLEY. In that Barnsdall station next door to Woody [1] they have a little lower price, but sometimes by being very good to your customers you can hold them, as in the case of Mr. Hewett.

The CHAIRMAN. What do you consider being good to a customer, that is, being good enough to hold him?

Mr. HEWETT. I might explain that this way. There is a difference, I think, in the meaning between filling station and service station. Literally, we operate a filling station. We consider ourselves a service station. Gasoline is only one of the many items we sell and we render complete service to the automobile owners and our customers.

The CHAIRMAN. In other words, you hold your customers by the attention you pay them rather than by the price you charge.

Mr. HEWETT. That is right. When Mr. Hartley gets through with that, I will take up the inconsistency of that.

Mr. CHANTLAND. Mr. Hartley, you repeatedly make the statement that there is an effort to create an over-all atmosphere. What kind of an atmosphere do you mean, and do you assert that the atmosphere intended to be created is a true or false atmosphere?

Mr. HARTLEY. I think it is a false atmosphere.

Mr. CHANTLAND. Will you explain that?

Mr. HARTLEY. I have to give an illustration and I hate to give it because I don't know whether it will be all right here, but there is an old story down in Missouri, where we come from, where Congressman Williams comes from, about a robber that used to run loose in a Robin Hood sort of way. He used to go into these places where he would go to rob people, and finally it got so the constables of the neighborhood knew he was coming, but he would go just the same and he would go in and he would rob them, and then if the constable could come after him, he would hurriedly crawl into bed with his victim. He would lie there with a knife in the victim's side until the police got out. [Laughter.]

That is the over-all atmosphere we mean, but I don't know whether it is right to bring it here or not. It is the quickest way to answer it, and I am trying to do it as quick as I can.

Now, going back to the cooperatives and the propaganda being handed down through the National Association of Petroleum Retailers to the filling stations to pass out to the public, we find this sort of thing signed by these men—I have given the date, August 5, 1937, signed by the Committee on Ways and Means: Fred I. Brewer, W. M. Boutin, and M. E. Holland. Mr. Holland was just elected the presi-

[1] Refers to Mr. Hewett.

dent of that association, Mr. Schuh[1] having been elevated to the chairmanship of the board. [Reading:]

As a subject of Association policy, you are advised—

This is addressed "To All Associations"—

that the Committee on Ways and Means has been making a special study and prepared a report upon cooperatives preliminary to submitting it to the Committee on Cooperatives, but urge that all associations shall take certain immediate steps.

Write your Congressmen that your organization is opposed to these cooperatives being given special consideration that they may undermine taxpaying business.

Notify your State legislators to the same effect.

Cooperatives form a real menace to our civilization in that they undermine our entire economic structure. While it is true that they do not yet operate in all parts of the country, they are spreading rapidly and principally because of the exemptions and subsidies they enjoy as compared to the taxes and restrictions placed on business. It is the duty of every businessman and every employee to protect the service-station business from this pampered type of operation that declares dividends from the favoritism of the law.

Now, we have one about Government control. This is "To All Associations," signed by David W. Shaw, vice president of the Division of Legislation of the National Association of Petroleum Retailers [reading]:

The N. A. P. R. officers and committees in all their duties and plans adhere strictly to the statement of policy of the Association, and the Legislative Committeee again here publish the part of that policy pertaining to legislation: "That this Association shall avoid legislation as a means of securing its intra-industry objectives. That this Association shall support constructive legislation for the welfare of the industry as a whole."

That is the point I am trying to make, that this over-all atmosphere is being encouraged—"as a whole."

And down below, he didn't put it in as a P. S. but it operates that way:

Above all we must keep industry away from governmental supervision or control. If petroleum is placed under public-utility control we will all be dancing to the tune of the political group in power. It is almost certain to mean a reduction in our income. It is doubted if a few square-capped persons could handle this. We must not allow the type of legislation to enter our industry that would cause Mr. Public to look at us with a frown and a squinting eye, for after all he is our paymaster. So let's treat him with the highest respect. Be sure he is given a fair consideration, and work out our troubles with a minimum of law and regulation.

We have been trying to work out our troubles that way for a long while and you can see what it has done for Mr. Hewett, and me.

Now, we have a letter from the American Petroleum Institute, American Petroleum Industries Committee, 50 West Fiftieth Street, New York, N. Y., Department of Public Relations. It is dated January 31, 1939. It is signed by Victor H. Scales, Director of Public Relations. I would like to testify to the reason for this letter having been written.

The CHAIRMAN. To whom is it addressed?

Mr. HARTLEY. To me.

We have been consistently trying to win our consumers to us out there so they will continue to trade with us at winning prices. The major oil companies had sent out a lot of "circus" signs to their

[1] Wilmer R. Schuh, whose testimony appears in Hearings, Part 17.

stations that they could get them displayed in, to get them to put them up: 2 cents off, 3 cents off, 4 cents off—from God knows what. Sometimes it is 4 cents off from something higher than the price was when they all began. We wanted to get out a sign of our own and we couldn't put them up, so we got out a little booklet, just something to stick in your pocket, entitled "Facts About the 1938 Kansas Gasoline Price War."

On the face of it, it was a local situation being discussed, and we began handing them out to the customers in Kansas City, and the customers who received them, some of them, were tourists, and they handed them out at home, and that thing kept on being asked for in our office until we had sent out 54,000 of them all over the United States, and we began receiving letters from dealers all over the United States telling us that the thing we had written, intended entirely for home consumption, was identical with their own condition, wherever they were.

The CHAIRMAN. Do you have a copy of that?

Mr. HARTLEY. No; I am sorry; we sold out the last one at 2 cents apiece, and paid the postage, and went broke finally with it, and about that time Mr. Scales wrote for 200 copies. It seemed like some of his managers in the major oil companies had read it and they wanted it, and they wanted more of it, and it might justify the existence of the public relations department of the American Petroleum Institute, because we had told the story of what they had done to us and about how we had been punished for appealing to the Justice Department.

He wrote to me and asked me for them and he took me to account a little bit for some of the things that he had seen in this pamphlet that had come to him. Among other things, he says this [reading]:

I am wondering whether the way to attack what you call excessive major oil company margins is through contact with the public and with the politician. Would it not be possible for your people to sit down with representatives of the major oil companies and discuss the whole situation?

And we have been trying to sit down with them ever since, and this is the first opportunity we have ever had. That is right. [Reading further:]

It is my experience that there is much to be said on both sides of any argument, and it is very possible that a definite decision could be reached that would be agreeable to all. My point is that in contacting consumer groups and public officials you are merely putting the whole industry in an extremely bad light, and that eventually the shadow will fall on members of your association as well as upon everyone else. I fear you will find that the politician cannot be depended upon to be always on your side, and you are likely to find that, having asked a favor of him, he will ask a favor of you, and you and your members might be placed in a very unfortunate position.

The CHAIRMAN. Well, you are in a pretty bad way, Mr. Hartley, now, with the politicians in front of you and the A. P. I. behind you. [Laughter.]

Mr. HARTLEY. Mr. Hewett and I thought about that yesterday, and we went up to see Congressman Williams, because he is from Missouri. We thought it would be all right because he is from down close to St. Louis and not up close to Kansas City. We went to Mr. Williams, and we told him that we liked him and we liked you folks, and we also told him that we didn't want any favors because he liked

us; that we wanted to just put the honest facts before you. Honestly, we are coming here without anything to cover up and nothing to conceal, and certainly nothing to gain, and not much to lose.

Mr. HEWETT. Not much to lose.

THE "BLOCKADE" METHOD AND OTHER PRACTICES

Mr. HARTLEY. Now I come to another publication by the National Association of Petroleum Retailers; I don't know just how to conduct myself here—you know that.

The CHAIRMAN. You are doing pretty well. [Laughter.]

Mr. HARTLEY. They give an address at 251 Republican Hotel, Milwaukee, Wis.

Mr. O'CONNELL. Would you repeat that; I didn't get that.

Mr. HARTLEY. It didn't go over very well. I am giving their address.

The CHAIRMAN. That was a little political allusion.

Mr. HARTLEY. Now, we have here some "Do's" and "Don't's" put out by this association for association members. Let me see if it gives the signatures here: Mr. Brewer, Mr. Boutin, and Mr. Holland.

One of the "Don'ts" [reading from "Exhibit No. 1266"]:

Don't raise the price until you have advised suppliers of your honest purposes.

One of the "Do's" [reading from the same exhibit]:

Call on wholesalers and large suppliers, explain your purpose and program, and request their advice and cooperation in making the new normal price effective throughout the territory; use all the tact you have, realizing that the suppliers may be placed in a difficult position and that they cannot agree with you to increase the price; show them that you are merely asking that they do not act destructively in regard to your program, remembering that most of these suppliers have had years of experience in marketing, and it is only smart to take advantage of their counsel.

(Representative Williams assumed the Chair)

Mr. HARTLEY. There are some more "Do's" [reading further from "Exhibit No. 1266"]:

In determining the advance to be made, realize that a small advance to a new normal cost-recovery price will not be noticed by the public, will not be detrimental if all do not go up at once, and will not divert gallonage to surrounding territories; then keep the advance within a quarter or three-tenths of a cent, knowing that you can make another advance later when others have followed your lead.

By this time you should be in the position to select your "market leader" who has the courage and those qualities of leadership that others recognize and will follow. After he is selected, give him your whole-hearted support.

Remember to not agree upon a price, but each individual has the right to determine what he wants to do and to announce it, thus avoiding any conspiracy. Your "market leader" can set a price and the organization can send out a notice that blank's service station is posting a retail price of 17.6–18.6 and 20.6 at 7:00 A. M., day and date.

If you have to use the blockade method—

And I want to testify here that under the conditions we had in Kansas City, we had some real problems in avoiding violence. I don't know whether you know it or not, but we had a Duce in Kansas City. We had two duces. We had Duce Lazia and he was shot and we had Duce Carrola before he was shot—no, Woody says we still have Carrola; he isn't shot yet.

We have trouble in keeping account of them up there. Congressman Williams knows that. So they were telling us to use the blockade system. Now we had gone far beyond the blockade system before this came to us.

Mr. SHAUGHNESSEY. The blockade system is driving cars into service stations and leaving them so no other cars can get in.

Mr. HARTLEY (reading from "Exhibit No. 1266"):

> Be sure it is friendly and peaceful, so as to prevent injunctions for disturbing the peace or disorderly conduct or assault, conducting yourselves as customers who are making small purchases and utilizing the free services which the station offers to the public, and block the driveways for a short time only—but during the busiest part of the day.

Now we had gone a long ways beyond that by the time that letter came——

Mr. O'CONNELL (interposing). Would you mind telling me from what organization that emanated?

Mr. HARTLEY. The National Association of Petroleum Retailers, ways and means committee.

Mr. O'CONNELL. That really doesn't mean very much to me. What is that organization, what is it composed of?

Mr. HARTLEY. Woody has attended a couple of conventions; he can tell you.

Mr. HEWETT. The National Association of Petroleum Retailers purportedly is national in scope and supposedly deriving its support from different local associations throughout the United States. We are endeavoring here to show that the policies of the National Association are not ours.

Mr. CHANTLAND. "Ours"?

Mr. HEWETT. Are not the policies that we follow, and we have definite reason for believing that they are a subsidized organization.

Mr. O'CONNELL. Subsidized by whom?

Mr. HEWETT. Major oil companies.

Mr. O'CONNELL. How can you support that?

Mr. HEWETT. I can support that in this way. We had a former member of ours who was a national director for 1 year and that was his conviction through attending board meetings of this same National Association of Petroleum Retailers.

Mr. HARTLEY. I wonder if your words got into the record—not a former member but a present member. You said a former member of our association.

Mr. HEWETT. He is a present member, but a former member of this National Association of Petroleum Retailers. In direct conversations with Past President Schuh it was admitted by him that a portion of his support came from Standard Oil.

Mr. O'CONNELL. Can you identify this document?[1]

Mr. HARTLEY. Yes; the organization received it through the mail.

Mr. O'CONNELL. I think it is very important, at least to me. As I understand it, this document purports to advise people how to blockade people who do not operate in a way that this organization or other people might think proper. It seems to purport to advise people on how to in effect raise prices or maintain prices without

[1] "Exhibit No. 1266," appendix, p. 9307.

having the legal effect of a conspiracy in restraint of trade. Is that a correct statement of what this document purports to do?

Mr. HARTLEY. I didn't submit it for that purpose. I can see where you would draw that conclusion very closely. I would say that that would be a fact, but I submitted it to show the over-all atmosphere that is being created and the methods of creating it.

Mr. O'CONNELL. Well, I believe that it does more than that, and personally I would like to have this entire document included in the record if you are in a position to testify to its authenticity.

Mr. HARTLEY. Oh, yes; I testify to its authenticity. We have our files full of such things. We couldn't bring them here because we had to travel.

Mr. O'CONNELL. Representative Williams, as acting chairman, would you have any objection to my requesting that this be inserted? I understand that you testified that you received this in the mail.

Mr. HARTLEY. Well, we received it. Our office received it.

Mr. HEWETT. Our office, as an association office, received it.

Mr. HARTLEY. I am careful to say that I didn't actually receive it but I know it came from there, we know it came from there. Everybody here knows the man who signed it.

Mr. SNYDER. Mr. Hartley, do you normally receive circulars of this kind from the N. A. P. R.?

Mr. HARTLEY. We used to until our method of operations were directly opposed and until we became known as a rebel organization. Then they ceased to send us them.

Mr. SNYDER. Was your organization at one time affiliated with the N. A. P. R.?

Mr. HARTLEY. Directly; a dues-paying affiliate.

Mr. SNYDER. What is the date of this document?

Mr. HARTLEY. At that time we were affiliated.

Acting Chairman WILLIAMS. It doesn't seem to have a date. I wanted to ask you when you received it?

Mr. HARTLEY. I couldn't tell you.

Acting Chairman WILLIAMS. Could you tell us about when?

Mr. HARTLEY. I tried to identify it. It was about September 1937. I tried to identify it this morning.

Acting Chairman WILLIAMS. Have you received since that time a similar document to this?

Mr. HARTLEY. No; not similar. We have never received anything from them that have been duplicates with the exception of such things as were to be passed out for distribution.

Mr. O'CONNELL. I would like to have it inserted.

Acting Chairman WILLIAMS. I think it might be admitted to the record.

(The document referred to was marked "Exhibit No. 1266," and is included in the appendix on p. 9307.)

Mr. HARTLEY. I think you could find lots of them over the country that have been sent out similarly.

Mr. CHANTLAND. Mr. Hewett, Mr. Hartley has read a number of other communications and bulletins from purported retailers and cooperatives on whose views you and he do not seem to be in accord.

Is the committee to infer from that that you regard these things as inspired or induced things as you have stated about this association, or as their genuine or real views?

Mr. HARTLEY. May I call your attention, Mr. Chantland, to the fact that we have read communications from only one other association and that was the American Petroleum Institute. All these from other associations have been from the same association, the National Petroleum Retailers Association. These several ones have been from them.

Mr. HEWETT. We are just submitting them.

Mr. HARTLEY. I think if Mr. Hewett will agree with me—and I know he won't unless he does—we do consider the National Association of Petroleum Retailers to be definitely subsidized by the major oil companies. Is that all right?

Mr. HEWETT. That is a statement I know something of.

(Senator O'Mahoney resumed the Chair.)

The CHAIRMAN. I was called to the telephone when you presented this.[1] Do I understand you to testify that this document, which is obviously a mimeographed statement or a statement produced in bulk, and which bears the title "National Association of Petroleum Retailers Ways and Means Committee, 251 Republican Hotel, Milwaukee, Wis.," also carries the designation "Bulletin WM-1," was received by you?

Mr. HARTLEY. Was received by our office.

The CHAIRMAN. Received at your office?

Mr. HARTLEY. At our office.

The CHAIRMAN. How? In the mail?

Mr. HARTLEY. Through the mail.

The CHAIRMAN. Was there any other identification of it?

Mr. HARTLEY. Excepting the envelope—it was from the association.

The CHAIRMAN. Was it transmitted with a letter?

Mr. HARTLEY. No.

The CHAIRMAN. It just came in the ordinary mail?

Mr. HARTLEY. That is right.

The CHAIRMAN. Bearing an envelope which was also designated as coming from the National Association of Petroleum Retailers?

Mr. HARTLEY. And they use that peculiar multigraphed type for a great many of their bulletins and it is signed by a member of the Ways and Means Committee.

The CHAIRMAN. It purports to be signed by Fred L. Brewer, W. M. Boutin, and M. E. Holland. Have you any knowledge as to who those gentlemen are?

Mr. HEWETT. I have met all of them in national conventions.

The Chairman. And are they the members of the ways and means committee?

Mr. HEWETT. They were at that time.

Mr. HARTLEY. Mr. Holland is now president of the association.

The CHAIRMAN. And Mr. Fred L. Brewer was the chairman of this ways and means committee?

Mr. HEWETT. He was at that time.

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[1] "Exhibit No. 1266."

Mr. HARTLEY. And Mr. Fred Kaullen, an active member of our association, was a member of their board and a member of their ways and means committee.

The CHAIRMAN. I observe that this also bears the legend—

> Extra copies C. O. D., Express or Parcel Post, $2.00 for 100 copies or less, $3.50 for 200 copies, $4.50 for 300 copies, $6.00 for 500 copies.

Have you any information as to whether or not this was circulated among the retail members of your organization?

Mr. HEWETT. It was not.

The CHAIRMAN. Was it received by any other members of your organization?

Mr. HEWETT. Not that I know of.

Mr. HARTLEY. I would qualify that a little bit, I believe, from my experience, if you will excuse me, to this effect: That we find a great many of our retailers whose names have been obtained somehow or other do receive through the mail literature from various sources around over the country, including the Gasoline Retailer and the National Association, and also from an association in California which has been very persistent in sending out such propaganda.

Mr. O'CONNELL. There is one factor about this particular document to which you referred in which I am very much interested and which apparently you are not in a position to substantiate, and that is the ultimate source of this document. You indicated that it was your belief that this particular organization was, as you put it, subsidized by the major oil companies, but you didn't tell me anything that seemed to indicate any substantial basis for that belief.

Mr. HARTLEY. That will be covered again a little bit later in some other testimony showing that Mr. Schuh, president of the association, came to our office and threatened us with the extermination of the association if we didn't line up with major oil company policies, and in addition to the threat of extermination he also gave us a promise that if we did line up with major oil company policies that the major oil companies of the Kansas City area would support us.

Mr. AVILDSEN. What do you mean by major oil company policies?

Mr. HARTLEY. Policies of marketing. Among other things, Mr. Schuh urged us to accept a formula which he had widely advocated over the country and which had been widely reported in the Gasoline Retailer and various subsidized publications, a formula for retailing.

Mr. AVILDSEN. Was that to give you a bigger profit? What was the purpose of the formula?

Mr. HARTLEY. We looked it all over and it looked like it was going to pinch us, but that wasn't what we were concerned about. Again I would like to come back to the fact that we are not concerned with profits in this particular testimony. We are concerned with advancing the interests of the consumer and the public generally and saving the country a little bit.

Mr. AVILDSEN. You think the National Association of Dealers is only interested in the dealer's profit, trying to help him make more money. Is that it?

Mr. HARTLEY. I think that the association as it has been conducted up to date—I hate to make a charge, I don't like to do that—but I would say that all the indications that we have had are that the principal aim has been to jump in this bed, in this over-all atmosphere,

with the major oil companies, and then secondarily some additional profit, but certainly they have operated to reduce the profits of the retailers, certainly.

Mr. AVILDSEN. That is in the interest of the consumer then, is it?

Mr. HARTLEY. Well, we kind of suspect that a little bit later, after they get the retailer controlled, the consumer interest will be somewhat neglected.

I would like to introduce another publication which we have identified as having come directly from the National Association of Petroleum Retailers, but it has no identifying marks on it whatever.

The CHAIRMAN. How did you identify it?

Mr. HARTLEY. Because it came to us through the mail with other literature from the same association, the National Petroleum Retailers' Association.

The CHAIRMAN. From this distance it seems to be of the same character as the other.

Mr. HARTLEY. The other is multigraphed and this is mimeographed, that is the only difference, and this has no signature to it. It was received, as nearly as we can identify it, on September 25, 1936, soon after the Iowa plan went into effect. While there is no identification of its source, it does say at the bottom it is "from an address by Wilmer R. Schuh, president of the National Association of Petroleum Retailers," and gave the same address of 251 Republican Hotel, Milwaukee, Wis. I read from one paragraph: "The answer has been before our eyes for many years," the answer of the problem to how to improve the conditions. "In each territory there has been a supplier that was recognized as the market leader and other suppliers have merely met the competition set by the leader."

"The dealers can do the same thing." In other words, there has been some place or other in the industry outside the retailers' organization, there has been a market leader, Mr. Schuh said, quoting from Mr. Schuh or purportedly quoting from him.

Now, the retailers can do the same thing. "But there must be a leader and he must be one of their own men; not an outsider or one in another branch of the industry. The leader must be a petroleum retailer and he must be followed by all other retailers in the territory."

Mr. O'CONNELL. Who is Mr. Schuh?

Mr. HARTLEY. Mr. Schuh is now chairman of the board of the National Association of Petroleum Retailers.

Mr. HEWETT. At that time was president?

Mr. HARTLEY. At that time was president.

Now I would like to depart from that over-all atmosphere and propaganda theory for a moment, in fact depart from it altogether. I want to hurry through this for you folks. I want to go to a discussion of a price-fixing formula for retailers that was brought out a while ago by interrogation, advanced by A. P. I.-N. A. P. R. representatives, the A. P. I. being the American Petroleum Institute and the N. A. P. R. being the Natonal Association of Petroleum Retailers, and I have hyphenated those two organizations, indicating that I shall attempt to present information here showing that they are working in collusion on this particular thing.

The base for the formula that we shall introduce—our first indica-

tion of it—came in a letter addressed to my predecessor, which I found in the files, which were carefully preserved from all other contacts until I took charge. It is dated August 16, 1937 [reading]:

At the present time there is a general tendency on the part of some companies to intrude in the retail market with the object of keeping prices down. Largely, this is because there has been a large differential between the cut-rate and the ethical marketers that has caused a big diversion of gallonage. In one instance on which we have statistics it was shown that the differential of 1 cent caused little diversion to the cut-rate but when this differential increased to 1½ cents the diversion amounted to about 6 percent of the normal gallonage. As the differential increased, it altered the gallonage in an almost geometric ratio up to a certain point. This has been causing considerable concern to a number of the larger suppliers.

This is signed by E. Chat. Shanks, executive secretary of the National Association of Petroleum Retailers, and I am pointing out to you that he is calling attention to the fact, or claiming that this has been causing considerable concern to a number of the larger suppliers—

and it is a problem on which we have been working with the object of letting the retailers work this situation out for themselves instead of having the market disrupted by suggestions from company representatives.

Paragraph 2, on the second page:

Another factor in the situation is that many cut-rates are now getting a much better quality gasoline than they did formerly. Largely this is the result of the Madison affair and of the suit by the Government against the Ethyl Corporation to break patent rights. It is also a result of not having a code in which these various points can be worked out properly.

Mr. Schuh came to Kansas City three times as president of the National Association of Petroleum Retailers, and contacted various members of our board. He contacted Mr. Hewett each time. On the third time he demanded a hearing with our board, and we assembled trusted members of the organization for him to talk to. I will read here the account of that meeting which Mr. Schuh addressed, as I referred it to a department of the Government.

Representative WILLIAMS. Who prepared that account? Is that your statement of what occurred there?

Mr. HARTLEY. It was prepared by the stenographer who sat in the next room and listened in our office, and listened to the whole conversation, and then it was signed by every one of the persons who were present, five men who were present, and sent as a document to the Department of Justice [reading from "Exhibit No. 1267"]:

Wilmer R. Schuh, president of the National Association of Petroleum Retailers, delivered an ultimatum to officers of the Kansas City Association Thursday, January 19, 1939. He threatened to revoke our charter and organize a rival local association. He reminded us of his success in organizing such a rival local in Philadelphia when A. A. Fish failed to conform. He reminded us of close contacts with major oil companies assuring him of their support in carrying out his threat. He gave us about two weeks to decide. We recognize the gravity of his threat if we fail to observe the conditions he has imposed. We believe also that we are being threatened because we have aided the government in investigations and stand ready to appear before the Senate Monopoly Committee.

Mr. Schuh's conditions to avoid destruction, resulting from organization of a rival local association with major oil company support, would require us to (1) cease opposition to major oil company marketing methods, (2) cease publicizing major oil companies as monopolistic, (3) cease offers to appear before the Senate Monopoly Committee, (4) cease offers of legal aid to members who feel themselves unfairly dealt with by major oil companies, (5) cease giving voluntary information to the Department of Justice and Federal Trade Commission involving major oil companies, (6) recognize Government indictments

at Madison as the cause of present widespread demoralization of the retail gasoline market, and (7) observe a certain formula for fixing—upward or downward—retail prices of gasoline to be sold by members of the Kansas City Association. Mr. Schuh announced that N. A. P. R. had devised this formula. Since it is concerned only with factors between the carload trackside price and the retail prices, its advocacy would require us to cease claiming that major oil company integrated profits are too high. Mr. Schuh asserted that recent conversations with major oil company officials—L. L. Marcell, of White Eagle, being specifically named by Mr. Schuh—

He also named a Mr. Jackson, of the Standard Oil Co., and a Mr. Ball, of the Standard Oil Co., whom we don't know, of course—

had convinced him—

Their conversation had convinced him—

that the Secretary of the Kansas City Association is in disfavor with major oil company officials. Mr. Schuh stated that the conditions he laid down were identical with demands of major oil companies.

I want to correct myself there just a moment. I want to be absolutely fair and honest, because I am under oath. Mr. Schuh asserted that recent conversations with major oil company officials—L. L. Marcell, of White Eagle, being specifically named by Mr. Schuh—had convinced him. He mentioned Mr. Jackson and he mentioned Mr. Ball, but their conversation didn't convince him, but that of Mr. Marcel did [reading further from "Exhibit No. 1267"]:

Mr. Schuh stated that the conditions he laid down were identical with demands of major oil companies.

A question asked Mr. Schuh by Mr. Leonard Johnson—

Who was present at the meeting, a former president:

What could we do now since we have already filed a complaint with the Justice Department?

Answer by Mr. Schuh: You could refuse to give them any assistance or cooperation and let them conduct any investigation without your help.

Another question asked Mr. Schuh by Mr. Johnson: How shall we go about to accomplish this retail price fixing legally?

Answer by Mr. Schuh: One member from each brand would have to contact the manager of his supplying company individually as they would not meet and decide on this in a group.

He further stated—

Well, this doesn't concern anything. It simply mentions the fact that there would be a spread between the trackside price.

Mr. O'Connell. Did you read all of that letter?

Mr. Hartley. No; I didn't quite read it all. I am offering the testimony. I didn't offer the letter, because they are all we have in our files. It is just a copy of the letter.

The Chairman. This is the letter that you sent to the Department of Justice, is it not? This was a letter dated January 23, 1939, and addressed to Thurman Arnold, Assistant Attorney General?

Mr. Hartley. That's right; yes, sir.

The Chairman. Signed by yourself as L. A. Hartley, executive secretary, Petroleum Retailers Association of Greater Kansas City, and signed also by Leonard Johnson, Otho L. Dill, Jack Maddigan, Ed. O'Laughlin, treasurer, and A. W. Hewett, president.

Unless there is objection, I think this letter ought to go into the record.

Mr. Snyder. No objection.

(The letter referred to was marked "Exhibit No. 1267" and is included in the appendix on p. 9309.)

The CHAIRMAN. Do I understand you to testify, Mr. Hartley, and you to testify, Mr. Hewett, that the statement contained in this letter is true, that Mr. Schuh, appearing before you as a representative and official spokesman of the National Retail Petroleum Dealers Association—is that the correct name?—the National Association of Petroleum Retailers——

Mr. HARTLEY (interposing). That's right; that's correct.

The CHAIRMAN. Advised you that unless you ceased offers to appear before this committee and testify with respect to the petroleum industry, steps would be taken to eliminate your association?

Mr. HARTLEY. That is literally true, just the way you have said it, just exactly as you have said.

The CHAIRMAN. Is that your statement, Mr. Hewett?

Mr. HEWETT. That is right.

Mr. HARTLEY. May I repeat my understanding of what you have said, so as to be sure I understood you? What I understood you to say was, to discontinue our offers to appear. Yes; that is correct.

The CHAIRMAN. And what did you say to him?

Mr. HARTLEY. We let him go clear on through, and then told him to jump in the lake, the way we do it down there, or the Kaw River, or something.

The CHAIRMAN. Mr. Hewett, what is your statement with regard to this?

Mr. HEWETT. It was decided we would go our way and let the National go their way.

The CHAIRMAN. Did you hear him make that statement?

Mr. HEWETT. I heard him make those statements; yes, sir; as well as the members that have signed that.

Representative WILLIAMS. Well, let me see that I understand this. This statement contained in this letter doesn't purport to be an exact copy of what he said, does it or does it not?

Mr. HEWETT. Those are the threats——

Representative WILLIAMS (interposing). "The threats" is a conclusion. That statement of what is a threat, of course, is purely a conclusion. Does this letter purport to be the exact language that he delivered?

Mr. HARTLEY. No; it is our understanding of that. It is what we received, and after we had interrogated him.

Representative WILLIAMS. These are the conclusions that you all reached from what he told you there in that conversation or in his talk with you?

Mr. HARTLEY. That's right.

The CHAIRMAN. It is your understanding of the purport of what he said to you.

Mr. HEWETT. That is exactly it.

Mr. HARTLEY. And we interrogated him over and over again to make sure we had the correct understanding, and he gave us to understand that we were correct.

Representative WILLIAMS. Did he see your statement after you wrote it up?

Mr. HARTLEY. Oh, no. The reason we didn't do that was because we felt we were dealing with the major oil companies, and to hand him that statement would have been to inform the major oil company oppo-

sition. So we didn't care to put it in the hands of our opposition, what little thunder we might have.

The CHAIRMAN. It is 25 minutes of 1, Mr. Hartley, and if you will be good enough to suspend now the committee will recess until 2:15.

(Whereupon, at 12:35 p. m., a recess was taken until 2:15 p. m. of the same day.)

AFTERNOON SESSION

The hearing was resumed at 2:30 p. m., upon the expiration of the recess.

The CHAIRMAN. The committee will please come to order. Are you ready to proceed, gentlemen?

Mr. HARTLEY. Mr. Chairman, if it please the committee, I would like to cease my direct testimony at this time and submit the opportunity to President Hewett.

The CHAIRMAN. Very well.

FOUR TYPES OF RETAIL OUTLETS

Mr. HEWETT. In following on, not on the lines pursued by Mr. Hartley but just merely the actual conditions as they have been reported to me through the past many years of experience in retailing petroleum products, our statement classified three types of outlets. Since that statement was prepared and filed there has been added a fourth type of outlet to those. Briefly, I will summarize those different types of retail outlets.

No. 1 is the company owned and company operated by salaried employees, which is the same characteristic as existed before the adoption of the Iowa plan or dealer marketing plan. At the time of preparation of this statement there was in operation at that time only four in the greater Kansas City area. At the present time Skelly Oil Co. has taken over the operation of a considerable number of their stations on a salaried basis.

The second type of retail outlet is the station that is owned or leased by a major oil company or a jobber and then re-leased to a lessee, who depends upon the profits of his operation for his income.

It has been developed here that these stations operated by lessees of suppliers are 100-percent stations and do obtain exclusive merchandising contracts. There is no set type of lease that these stations operate under so far as we can find out. They seem to change with irregularity of periods of time to suit the needs of our conflicting marketing program in the area.

Some of them have 5-day cancelation clauses, some of them run for a year; that is the longest time that any lease that I know of, or can find out about, in Kansas City runs.

Irregardless of whether there are 5-day-cancelation clauses, 30-day-cancelation clauses, up to 1 year, the lessee is pretty much under the control of the supplier through his marketing methods. That is, the lessee, if he has some money to invest—and he must have to take over the operation of the station; he must have some at least—doesn't know whether he will continue in operation as a retailer in that particular location for a period longer than 1 year. If his operating methods do not please his supplier, it is quite possible that his lease will not be renewed. That has happened.

I know a good many of our members that today are threatened with the fact that their lease will not be renewed. One of them in particular has an investment in his station of stocks and equipment that belongs to him upward of $2,500.

The CHAIRMAN. You say you know that these have been threatened with cancelation of their leases?

Mr. HEWETT. I know they have been executed.

The CHAIRMAN. You know what have been executed?

Mr. HEWETT. The failure, that is the cancelation of the lease, that is the supplying company did not like the attitude of a particular lessee and canceled the lease.

The CHAIRMAN. Your statement was that you knew of lessees who were threatened with the failure or the cancelation of their leases. That is what I was asking you.

Mr. HEWETT. Yes; that is true.

The CHAIRMAN. Why? Canceled for what reason?

Mr. HEWETT. Because the merchandising method that this lessee employs does not coincide with the program advocated by the supplying company.

The CHAIRMAN. Well, in what way? Can you fix it definitely?

Mr. HEWETT. In this particular instance it is because he is working on too small a margin.

The CHAIRMAN. Does that mean that he is cutting the price of gasoline?

Mr. HEWETT. That is right.

The CHAIRMAN. He is selling at a margin smaller than that of other dealers?

Mr. HEWETT. Considerably smaller than that of other dealers.

The CHAIRMAN. But isn't it your position that the margin for dealers is not sufficient to enable them to operate at a profit?

Mr. HEWETT. That is my position.

The CHAIRMAN. So that when a dealer, as this one, cuts his margin so low that the supplier objects to it, he is practically removing all possibility of his operating at a profit, if your premise is correct. Is that right?

Mr. HEWETT. He tells me that he is not operating and making money out of it. He has his own reasons for that method of operation and it isn't his own choice that he likes or employs that method of marketing. It was strictly to meet competition set up amongst the street.

The CHAIRMAN. Well, what is your experience with respect to the number of independent dealers now operating in the area served by your association?

Mr. HEWETT. Our association serves about the same proportion to which the total volume of gasoline is sold in the State of Missouri. That is, classify it this way: Controlled outlets, as Mr. Hartley pointed out, sell 57 percent of the total volume in the State of Missouri. Dealer outlets selling nationally branded products; that is, jobbers, to their dealers sell 22 percent. All others 21.

Now, then, our representation in our association is approximately in that proportion.

The CHAIRMAN. I don't know that I have made myself clear or that I understand your answer. What I am trying to determine is

what your experience has been with respect to the change in the character of stations in this area as divided between stations which are wholly owned and operated by majors, stations which are owned by the majors and leased by them, stations which are owned by independents and are covered by the so-called 100-percent clause or some contract which binds them to deal exclusively in the products of the supplier, and the number of retailers who are free to buy and sell whatever gasoline or whatever petroleum products they please. Now, those four categories cover about all of the dealers, do they not?

Mr. Hewett. That is right. I was coming to that just a little further down the line. I will answer that now. The percentage or the trend is toward a higher percentage of controlled outlets, either through major suppliers, the jobbers supplying independent station, that seems to me an absorption, maybe I should put it this way, of control over stations supplied by jobbers.

The Chairman. When you speak of control, by whom is this control exerted?

Mr. Hewett. That is exerted by the supplier. In the case of my first or second type of outlet that is the lessee station. The third type of outlet is the outlet supplied either by jobbers or directed from the major oil company where the operator leases the property from the disinterested party and gets his supplies sometimes with and sometimes without a sales agreement.

The Chairman. Well, are all the suppliers to whom you refer when you speak of controlled stations, that is to say, outlets that are controlled by the suppliers, are all of them majors?

Mr. Hewett. Oh, no; I don't mean that inference at all.

The Chairman. So that some suppliers who are not majors also exercise this control of which you speak.

Mr. Hewett. That is true. That is done in some of the jobbers.

The Chairman. And what proportion do they occupy with respect to the whole business?

Mr. Hewett. The jobber retailers that are controlled?

The Chairman. Such suppliers exercising this same degree of control. As I understand your story now, it is that the retailer is falling under a constantly greater degree of control by the supplier and that this sort of control is exercised by the supplier whether or not he is a major supplier.

Mr. Hewett. That is right.

The Chairman. It might be a so-called independent supplier or a jobber which would exercise this control over the policies and program and activity of the retailer.

Mr. Hewett. A lot depends upon the interpretation of independent supplier.

The Chairman. Well, of course I am doing the best I can to get clear in my mind what you mean. You said a moment ago, in answer to my question, that not all of these suppliers are majors.

Mr. Hewett. They are not majors, a good many of them. We have 22 jobbers in Kansas City—maybe this will explain it—22 jobbers in Kansas City, who distribute nationally advertised products. Now then, some of these jobbers have the sales agreement the same as the major companies. Some of them own stations and lease to operators the same as the major companies.

The CHAIRMAN. So that the tendency of the supplier to control the policy of the retailer is noticeable regardless of whether or not the supplier is a major.

Mr. HEWETT. That's right.

The CHAIRMAN. But the effect upon the retailer is the same.

Mr. HEWETT. The effect is the same exactly.

To further develop that third classification of outlets, jobbers recognize tank-wagon prices set by the major oil companies to the extent that they follow it unless it is necessary to deviate from it to get the business.

EFFECT OF MAJOR COMPANY DOMINATION OF THE INDUSTRY UPON THE CONSUMER

The CHAIRMAN. And do you want the committee to understand that the position of the absolutely independent retailer who is not subject to control or suggestion from any supplier, big or little, is getting less and less important in the industry?

Mr. HEWETT. That's right, that's right; in the retail area in Kansas City.

The CHAIRMAN. And you feel that that is bad for the industry?

Mr. HEWETT. I feel that it is bad for us.

The CHAIRMAN. Of course, it is obviously bad for the retailer who is being pushed out. Is it bad for the consumer?

Mr. HEWETT. It is bad for the consumer.

The CHAIRMAN. Why?

Mr. HEWETT. In this respect. If history repeats itself and the retailer comes under absolute domination, we will possibly be subject to higher prices to the consumer.

The CHAIRMAN. You say "possibly."

Mr. HEWETT. That is, if history repeats itself.

The CHAIRMAN. What is the effect upon the supplier of this trend?

Mr. HEWETT. Suppliers, jobbers in general, have become more numerous in Kansas City. Their condition I don't know, financially, as to whether they are getting stronger or weaker. Several years ago you could name the jobbers on the fingers of one hand. Today there are 22, either jobbers or, as I have heard them described, second-story distributors, operating within the area.

The CHAIRMAN. Well, aren't we dealing with a subject which is very similar to that of the chain store in other articles of merchandise?

Mr. HEWETT. That's right, that's right.

The CHAIRMAN. And your complaint is that the independent local dealer is being gradually pushed out of the business.

Mr. HEWETT. It seems very much that way to us, sir.

The CHAIRMAN. And that the place is being taken by a distributor who operates in a much larger, in a broader, sphere than the local distributor operates.

Mr. HEWETT. I think that is true.

The CHAIRMAN. Now, I wish you could give us your definite opinion, and whatever facts you may have to support it, as to the actual effect, not your supposition but your actual knowledge, as to the actual effect upon the consumer. What is the public interest, in other words? It is quite clear to us, I think, that the retailer feels

that his interest is adversely affected by this development. Now what is the effect upon the interest of the consumer, the public?

Mr. HEWETT. The public interest is pretty much all wrapped up with ours as retailers. We can only serve the public better——

The CHAIRMAN (interposing). Tell us the exact facts upon which you base that conclusion.

Mr. HEWETT. Well, I hate rather to be driven into conclusions here.

Mr. HARTLEY. May I offer a few facts here?

The CHAIRMAN. Certainly; we are after the facts.

Mr. HARTLEY. You know that the effect upon the retailer has been adverse.

The CHAIRMAN. That is the way the retailer seems to look at it.

Mr. HARTLEY. That seems to have been rather established here.

We have had the condition in Kansas City which was bordered very closely upon violence of the extremest kind, which endangered the lives of consumers who came into our stations. We tried to publish those facts in the Kansas City Star, painstakingly raised a sum of $400 to buy a quarter-page advertisement in the Kansas City Star, to indicate that whenever they came into a station that was definitely marked as a member of the Petroleum Retailers Association, that there their families would be safe. These service stations are semipublic conveniences, where people come in at all times and all hours.

We, in the meantime, since the gasoline price war came on, as a result of the conditions Mr. Hewett brought out, began receiving offers. They always came anonymously. We couldn't positively identify the sources, couldn't go before a grand jury and testify to anything as a fact, but we had reason to believe that this came from bona fide sources, of offers to blow up any station we wanted blown up in the area; the highest price was $30, guaranteed results. Those stations were being entered constantly by women and children, our customers.

The Kansas City Star refused the advertising because we had injected into the advertisement some sort of statement about some of these companies being pirates.

The CHAIRMAN. Well, again that doesn't answer the question. You are not coming to what I have in mind. I want to know what are the actual facts upon which the conclusion is based that the price to the consumer would not be higher if there were a different situation in the industry. You see, the contention is made upon the other side that competition for local outlets tends to keep the price down. Mr. Hadlick appeared before this committee with a chart from a journal, a petroleum journal of one kind or another, in which there was purported to be shown the profit or loss in various branches of the industry. A large profit was shown in production, a large profit was shown in transportation, a large loss was shown in refining and marketing.

Now, the independents come to us and say that if the independents were able to operate at a profit, the price to the consumer would be higher. Now I want to know how you get that conclusion.

Mr. HARTLEY. I don't believe that all the addition and subtraction in the world would ever change the figure as it is so obviously presented, and that is that if the price is raised so that the filling sta-

tion can get more in their margin, and if it isn't decreased some place else in the tank-wagon price, why, obviously the consumer will have to pay more. Therefore, we have adopted the course in all of our procedure of trying, as we have expressed it out there, to kick a hole in the top of the tank-wagon price. In other words, we are trying to get something out of the refinery. It can't be done now as long as the major oil companies control the tank-wagon price and the refinery price and the tank-car price and the jobber price. There isn't any hope for the consumer until we improve our condition; that is the answer, isn't it?

The CHAIRMAN. Of course, this is a very realistic matter, and so far as I am looking at it now, it is no question of right or wrong, don't you know. No question of morals is involved here at this particular phase of it. It is a question of the relative value to the consumer, relative value to the public of an integrated industry and a nonintegrated industry, and the answer to this question might apply to any other industry as well as to petroleum, don't you see.

Mr. HARTLEY. We have no quarrel with integration. We want to go on record to that effect. We have stated that in our statement. We have no quarrel whatever with integration. So far as we are concerned, we can't see any benefit whatever to the consumer nor to the retailer from all these divorcements. We have gone on record in our statement that if you divorce all these departments, you will have just one more monopoly than you have severances. We are not interested in the question. In fact, just from an engineering standpoint it looks like the perfectly integrated company would be able to serve society better.

The CHAIRMAN. Now that is a very interesting point of view—what I am trying to get.

Mr. HARTLEY. That is our Board's view. I am sorry I injected myself into this.

Mr. AVILDSEN. On that same theory, wouldn't a consumer cooperative be the most efficient system of merchandising, in which the public became a partner in the merchandising enterprise?

(Mr. O'Connell assumed the Chair.)

Mr. HARTLEY. If I were to give my own personal view and the view of those cooperatives who are associated with us, I would say yes to that question. I believe that we would have members who would disagree.

Mr. AVILDSEN. And you think the consumer's cooperative is the most efficient method of retailing gasoline?

Mr. HARTLEY. I would say that the consumer's cooperative under the Rochdale plan, with the technological advantages of the major oil companies. If you would allow me to give a real honest answer to that question, it would be something like this: This whole thing could be resolved beautifully if the retailer, the consumer, and the integrated companies and these other companies—if we could all just sit down together and have an understanding and cooperate.

Mr. AVILDSEN. But that is getting a little off from the cooperative idea, isn't it?

Mr. HARTLEY. Yes; it is.

Mr. AVILDSEN. Now you are bringing in the retailer. I thought you said a moment ago a co-op is the most efficient.

Mr. HARTLEY. I would say the consumer's cooperative with the integrated advantages through their technological equipment, and also I would think I would give credit to the integrated companies for a splendid development of management, I mean the managerial ability of their officials. I think it has a very high standing. There isn't any question about it.

Mr. AVILDSEN. Do you include marketing in that?

Mr. HARTLEY. Yes; every division. I don't want to be misunderstood here at all as being at all opposed personally to the fine quality of leadership that the majors have.

TANK-WAGON PRICE

Mr. SHAUGHNESSY. We have a difficult question from the marketing angle, namely that the dealer's margin cannot go up so far as the consumer is concerned without the tank-wagon price coming down. Is it your opinion that the tank-wagon price is not competitive, that the companies don't compete in their tank-wagon market?

Mr. HARTLEY. It isn't our opinion, it is our experience.

Mr. SHAUGHNESSY. What is that experience founded on?

Mr. HARTLEY. Actual observation of tank-wagon prices over a broad area and a long period.

Mr. SHAUGHNESSY. They are always the same?

Mr. HARTLEY. There are 11 major oil companies operating in our district and all we have heard by actual contacts with persons in 11 States is the same thing.

Mr. SHAUGHNESSY. Don't those major companies compete against one another for gallonage?

Mr. HARTLEY. I think they compete about like the departments of a store compete. A big department store will have a great many departments organized, and they have quotas for one another and they encourage each other to compete rather actively, and they get one another together from time to time and quiz them and find out if this girl sold 10 cents more today than she did yesterday.

Mr. SHAUGHNESSY. I think you may have misunderstood my question. I don't mean competition as between service stations, I mean competition as between companies.

Mr. HARTLEY. I think that will extend to companies.

Mr. SHAUGHNESSY. You mean to say the Texas sales manager and the Standard sales manager get together?

Mr. HARTLEY. Oh, no; I don't think they get together in that way. I think they get together for other purposes, but not for that.

Mr. SHAUGHNESSY. For what purposes do they get together?

Mr. HARTLEY. If you want that answer, I met with them one time; I met with a group of major oil company officials in the Kansas City Club at luncheon and we discussed things very generally and the sum of our discussion was that the margins should be reduced in the retail places, so I do think they get together once in a while for things like that.

Mr. SHAUGHNESSY. Did you agree that the margin should be reduced?

Mr. HARTLEY. No.

Mr. SHAUGHNESSY. That was some of their discussion?

Mr. HARTLEY. That is right.

Mr. SHAUGHNESSY. Why did they think the margin should be reduced?

Mr. HARTLEY. I think they were all very honorable and honest gentlemen and just felt like they ought to have a lower margin so that each one of them could sell more gas.

Mr. SHAUGHNESSY. You mean that they thought the price should come down.

Mr. HARTLEY. Yes; at the expense of the retailer.

Mr. SHAUGHNESSY. That is if the price should come down it should be at the expense of the retailer.

Mr. HARTLEY. No; that the price should come down at the expense the retailer, not if it should.

Mr. SHAUGHNESSY. There is one thing that the major companies in their testimony have indicated, that there is competition in the retailing of gasoline, and that competition is primarily in securing dealers who will distribute their product.

Mr. HARTLEY. I think that is true, I would agree to that.

Mr. SHAUGHNESSY. There are two things, to push as much gallonage through as many dealers as possible. Under your theory, in which there is what amounts to discrimination against the dealer, how do the major companies ever succeed in getting new dealers in order to push their gallonage?

Mr. HARTLEY. Woody can tell you that.

Mr. SHAUGHNESSY. Go ahead, Mr. Hewett.

Mr. HEWETT. On the tank-wagon prices of the major oil company, that is if it requires an additional rebate, it is secured through one of their jobbers.

Mr. HARTLEY. He wants to know, Woody—I will answer that question if you don't mind.

What the man wants to know is how they get dealers if these stations are in such bad condition. They usually have a waiting list. In order to test that thing we ran an advertisement for 2 weeks in the Kansas City Star to find out how they got their dealers. We had 157 applications from all types of people for stations. Our advertisement was worded this way: "Filling stations failing daily." Wasn't that it?

Mr. HEWETT. That is right.

Mr. HARTLEY. "Filling stations failing daily."

Mr. HEWETT. "See us and save money."

Mr. HARTLEY. "See us and save money." It was deliberately worded so people would dodge away from it, and yet we had 157 applications in 2 weeks, many of them by letter, in ages ranging from 72 down to 21. One young woman and a young man, a wife and husband, came into my office there and confessed that they had $12,500 that they had inherited, wanting to put it into a filling station. It isn't a bit of trouble to rent these filling stations. You have always got a sucker right around the corner—wait until they come in.

Mr. SHAUGHNESSY. I don't know how a business could run if it was based primarily upon luck. You would think you would want more qualifications than a person who was dumb enough to go into the filling station business in order to push gasoline.

Mr. HARTLEY. You would think that but it doesn't always work out that way.

Mr. SHAUGHNESSY. Would that be true in a territory that was not overbuilt?

Mr. HARTLEY. No; that would be my answer to your question.

Mr. SHAUGHNESSY. Have there been any marketers of any substance come into the Kansas City area in recent years?

Mr. HARTLEY. Any substance?

Mr. SHAUGHNESSY. Hasn't the number of major companies marketing in Kansas City been more or less the same in recent years?

Mr. HARTLEY. There has been one less in the last 2 years. Tidewater dropped out but Texaco took all of Tidewater's distribution instantly.

Mr. SHAUGHNESSY. So in an overbuilt territory we don't have the competitive condition of new companies, companies not previously marketing in that area, coming in and offering concessions in order to secure dealers, or anything of that sort?

Mr. HARTLEY. I think that is correct.

Mr. SHAUGHNESSY. You think that is correct?

Mr. HARTLEY. Yes.

Mr. HEWETT. I know of none of them.

Mr. SNYDER. Mr. Hartley, do you think if all of the filling station operators were completely divorced from supplier domination that these operators in a group would tend in their purchases to drive down the tank wagon price?

Mr. HARTLEY. There isn't any question about that.

Mr. SNYDER. Is that the reason why you think the consumer would benefit if the independents were relieved from their contractual obligations to the integrated companies?

Mr. HARTLEY. Yes, sir; in substance our whole recommendation before this committee would be that we would like to have the cable cut which now ties us and anchors us to our suppliers through a merchandising contract and a purchasing agreement, so that we would be free to purchase our supplies at the source of our supplies.

Mr. SNYDER. Let me see how far you will go with that. Do you want to eliminate the lessee relationship?

Mr. HARTLEY. I don't see how you could eliminate that, Mr. Snyder, when these companies own these stations. They are there, and so they would have to lease.

Mr. SNYDER. Then you want to eliminate the contract between the dealer and the supplying company covering the purchases of gasoline and other products from the supplier.

Mr. HARTLEY. That and one thing more.

Mr. SNYDERS What is that?

Mr. HARTLEY. Severing the cable that anchors us to the major oil company suppliers through these merchandising contracts and agreements and identify the major oil company dealer or the independent oil company dealer, or company, I mean, as an employer whenever in any way he interferes with station management.

Mr. SNYDER. Now, do all lessees of major company stations have merchandising contracts with their suppliers?

Mr. HARTLEY. Answer that, Woody.

Mr. HEWETT. That is a part of the lease of the major oil company to their lesee, to buy their supplies from them as their supplier.

Mr. SNYDER. Do you mean that the lease and the merchandising contract are one document?

Mr. HARTLEY. No.

Mr. HEWETT. No.

Mr. HARTLEY. No; never, seldom ever, but they usually accompany one another.

Mr. SNYDER. Do they refer to one another?

Mr. HARTLEY. I have examined a lot of those leases and a lot of those merchandising contracts and some of them do and some of them don't.

Mr. SNYDER. Frankly, I, myself, have examined probably thousands of these leases and never found any reference at all to what merchandise will be sold to the station.

Mr. HARTLEY. Very seldom.

Mr. SNYDER. It seems as if the merchandising contract is really the thing you are complaining about as being the evil influence.

Mr. HARTLEY. And indirect management.

Mr. SNYDER. Indirect management is the supervision in regard to prices and other methods?

Mr. HARTLEY. Prices and management, generally, of which prices are the crux of the situation.

Mr. SNYDER. Take a filling-station operator who owns his own property, has no lease with any integrated company. Does he have a merchandising contract with the supplier?

Mr. HEWETT. I have a sales agreement. That is the outlet that I operate.

Mr. SNYDER. How many years does that sales agreement run?

Mr. HEWETT. It runs for 1 year and is automatically renewed unless notice of cancelation is given I believe it is 30 days prior to expiration of that sales agreement.

Mr. SNYDER. Does it cover anything more than the purchase of gasoline and lubricants and the prices you pay for them?

Mr. HEWETT. No. If you have reference to exclusive merchandising, no.

Mr. SNYDER. There is no exclusive feature?

Mr. HEWETT. No exclusive feature.

Mr. SNYDER. So then the exclusive feature of your operations for the Texas Co. comes by way of the oral instructions and advice from the Texas Co.'s manager.

Mr. HEWETT. Well, if there is any; yes.

Mr. O'CONNELL. What do you mean if there is any? Is there any?

Mr. HEWETT. In our district there happens to be none.

Mr. HARTLEY. He means on Texas Co.

Mr. HEWETT. So far as Texas Co. is concerned. There are possibly reasons for that. One is, a few years ago, it has been stated here, they ran into some difficulties in merchandising accessories and they have an agreement that they will be out of the accessory business. It seems as though so far as our representative in Kansas City is concerned, that he is not willing to go out on a limb and make any statements with reference to how we shall operate. Another factor that might be considered in the Kansas City area so far as the Texas Co. is concerned is that it is new in its distribution there, comparatively new. They have been in for several years, but the growth has been slow, the development has not been rapid, it has not been made by making cash allowances or offering extra discounts, and they are having an increase in volume of business, and so long as they can

continue an increase in volume of business, they seem reluctant to try to influence the operator orally.

I have one salesman; I have heard him make the remark only, not directly as a command that I should follow, but he says, "I believe if I was operating this station that I would be competitive."

Mr. SNYDER. In other words, he means meet the lower prices of your neighbor next door.

Mr. HEWETT. Meet the prices.

Mr. SNYDER. And that is what you have refused to do?

Mr. HEWETT. That is what I have refused to do. So long as we don't surrender to control, we have the hope of maybe establishing better relationships.

Mr. SNYDER. You claim it isn't necessary for a dealer to stay in business to meet all the competition around him.

Mr. HEWETT. It isn't necessary in my case.

Mr. SNYDER. Take the average dealer, take the majority of the dealers in Kansas City. What would their average experience be? Would they be able to operate like you do?

Mr. HEWETT. No; I think not.

Mr. SNYDER. What is the difference between your situation and their situation that enables you to operate as you do and they have to meet competition?

Mr. HEWETT. I just partially explained that this morning, that we operate a service station, if we might make a little distinction between service and filling stations. We have other ways of making profit other than gasoline. Another reason for making that statement that others might not be able to do the same as we do, is that my partner and I, as to combined experience in the retail field in Kansas City, have 17 years on my part and 19 years on his previous record in that particular area, and we have what is known as a following.

Mr. SNYDER. What is your price today at the service station?

Mr. HEWETT. Seventeen and four-tenths.

Mr. SNYDER. What are the prices of your competitors on a similar grade of gasoline?

Mr. HEWETT. Ranging down to 13.4¢ in various parts of the town.

Mr. SNYDER. Four-cent differential?

Mr. HEWETT. Four-cent differential.

Mr. SNYDER. Do your customers believe that your service is worth 4 cents?

Mr. HEWETT. They continue to trade with us.

Mr. SNYDER. I would like to ask this question on this subject. If you did not have your merchandise agreement with your supplier, what freedom of action would you have that you do not have now, if any?

Mr. HEWETT. I have considered the cancelation of that sales agreement. I was offered a major branded product, trucked directly from the refinery, at 1 cent above refinery cost, refinery price; that is, I would pay the trucker the refinery price plus taxes, plus 1 cent for transportation.

Mr. SNYDER. How does that price compare with your present tank-wagon price?

Mr. HEWETT. Just a moment. I don't know now just what the price

is today. I didn't cancel my contract and haven't paid much attention to the refinery price. At that time it was approximately 5 cents, 4 cents tax and 1 cent transportation; it was 10 cents. At that time I was paying tank-wagon price of 11.9¢ taxes included.

Mr. SNYDER. So you would be saving how much by this other operation?

Mr. HEWETT. 1.9¢ per gallon.

Mr. SNYDER. Are there any benefits that you obtain from your supplier under your present arrangement that you wouldn't enjoy if you had this type of operation?

Mr. HEWETT. Yes; under that particular type of operation I would not have the use of credit cards. That is the only thing.

Mr. SNYDER. What benefit to you is the use of the credit card?

Mr. HEWETT. Oh, in our particular locality I think the credit card does bring us considerable business. However, most of our credit-card users are where we have shifted the burden from ourselves to the supplying company.

Mr. SNYDER. The Texas Co. assumes the burden for the credit?

Mr. HEWETT. That is right. They don't carry all of it by a considerable amount.

Mr. SNYDER. Are those credit-card customers coming into your station issued credit cards on a Nation-wide basis or just a local basis?

Mr. HEWETT. A Nation-wide basis.

Mr. SNYDER. In other words, they are tourists passing through?

Mr. HEWETT. Some of them are tourists.

Mr. SNYDER. Are some of them business houses that have fleets of trucks?

Mr. HEWETT. No; we have no commercial business at all at our particular location.

Mr. SNYDER. Do you mean, then, that the credit-card holder just drives an automobile as a salesman or somebody in business who may not be classed as a tourist but travels?

Mr. HEWETT. Quite frequently with us he is just a resident in our locality.

Mr. SNYDER. Is he signed up with the Texas Co. on the Nation-wide plan or the local plan?

Mr. HEWETT. He is signed up on a Nation-wide plan.

Mr. SNYDER. Have you any idea how much that costs the major company?

Mr. HEWETT. I have no idea at all.

Mr. SNYDER. Do you give him a discount?

Mr. HEWETT. No discount.

Mr. AVILDSEN. Do all the major companies have credit card systems in Kansas City?

Mr. HEWETT. I think the great majority of them; I couldn't say whether all of them do or not.

I want to explain here just a little further about another proposition that I seriously considered. This included the use of the credit card. I had the opportunity of buying gasoline at 1 cent a gallon above delivered carload price, or 1 cent under tank-wagon price, with the privileges of all the advertising and with the privileges of the use of the credit card. That was from a jobber of a nationally advertised product.

Mr. AVILDSEN. Why didn't you take that proposition?

Mr. HEWETT. I considered the different factors in our particular location, and I had competition in this same product within a few blocks, whereas under the situation I am still operating under, I have no competition for many blocks; the city limits on one side and 24 blocks on the other.

Mr. AVILDSEN. Then you do admit that there must be real competition between the major companies or the major companies and the jobbers of some other major company.

Mr. HEWETT. And the jobber. There seems to be some competition in there between the jobbers.

Mr. AVILDSEN. In one case you were going to deal with a refinery. Is that through a jobber?

Mr. HEWETT. No; that was through a fellow that has a hauling contract.

Mr. AVILDSEN. But you would have bought your oil not from him but from a jobber.

Mr. HEWETT. I would have had to buy my oil from some jobber.

Mr. AVILDSEN. I mean the gasoline.

Mr. HEWETT. The gasoline would have been through him from the refiner.

Acting Chairman O'CONNELL. Through the jobber?

Mr. HEWETT. No.

Mr. AVILDSEN. Hauling contract?

Mr. HEWETT. He has, or did have at that time, a contract whereby he could purchase gasoline at the refinery and he would sell that to me at refinery price plus 1 cent a gallon transportation costs.

Mr. AVILDSEN. All he wanted was the hauling job.

Mr. HEWETT. All he wanted was the hauling job and whether or not I had heard it intimated that he did shave the refinery price as quoted in the Journal of Commerce, through maintaining volume.

Mr. AVILDSEN. But he was willing to sell you at his cost.

Mr. HEWETT. That is presumably it. What his contract was with the refinery, I don't know.

Mr. AVILDSEN. All these things do indicate that there is competition between the major oil companies and that this tank-wagon price isn't as rigid as might have been indicated.

Mr. HEWETT. It is rigid so far as major oil suppliers in their own tank wagons are concerned, but not among the jobbers of the major oil companies.

Mr. HARTLEY. May I inject something here? There is no competition at the tank wagon—positively no competition at the tank wagon—of any of the 11 major oil companies in the Kansas City area. They have identical prices, and their prices are maintained identically simultaneously on every rise and every fall.

Mr. SNYDER. Let me ask Mr. Hewett a question on that, since he is the dealer. You say you have been in business 17 years.

Mr. HEWETT. Seventeen years.

Mr. SNYDER. Do you know the number of instances during that period of time when the tank-wagon price of the majors has been different?

Mr. HEWETT. No; I don't ever remember when the tank-wagon prices from the major oil companies, from their own tank trucks,

differed for any appreciable length of time. I think there are two exceptions to that. One exception was June 14 of this year, when Sinclair announced a half-cent increase in the tank-wagon price of gasoline, which was followed by 9 of the other majors in Kansas City on the same day, but was only followed by Standard Oil of Indiana on third grade. The duration of time of that difference was less than a week, when the 10 all backed down to Standard's price.

A similar condition existed last August, in the latter part of August. I don't remember the exact date when Shell led with a three-tenths of a cent increase in tank-wagon price. That was followed the next day by two or three and the next day by the majority of them. Again Standard Oil of Indiana refused to move up and increase their tank-wagon price, and the whole movement fell through, and they backed down in less than a week's time.

(Senator O'Mahoney resumed the Chair.)

Mr. AVILDSEN. In view of what Mr. Hewett said, Mr. Hartley, would you want to change your statement, then, that there has never been any difference between the tank-wagon prices of the major companies?

Mr. HARTLEY. I did not say that.

Mr. AVILDSEN. Excuse me; I think you said there is no competition.

Mr. HARTLEY. There is no competition between them, because it isn't maintained long enough—only a few days.

Mr. AVILDSEN. The situation Mr. Hewett has described would indicate real competition.

Mr. HARTLEY. No real competition, because the competitive prices were not maintained any length of time. In the case of Shell it was three-tenths of a cent, and it lasted about a week.

Mr. AVILDSEN. If Standard Oil had a lower price than the other companies, the other companies had to come down to their price. They could not maintain a difference for any length of time.

Mr. HARTLEY. That is correct, and also at times they announce that they have competition upward, although I can't see how competition could ever be upward.

Mr. SNYDER. Now, while we are on price leadership of the Standard Oil Co. of Indiana in this area, are they leaders in the types of contracts used between suppliers and dealers?

Mr. HEWETT. Are they leaders?

Mr. SNYDER. Do they set the type of contract for the area, or are there competitive types of contracts in the area?

Mr. HEWETT. I really don't know whether they are the leaders in that or not.

Mr. SNYDER. Do you know whether in the Kansas City area the Standard Oil Co. has supply contracts with lessees of their stations?

Mr. HEWETT. Well, when they lease a station they agree, in their contract, to supply their products.

Mr. SNYDER. You mean the lease contains that provision?

Mr. HEWETT. I don't know about that. That was in the old lease and agency agreement that I operated under.

Mr. SNYDER. But at the present time you are not conversant with the Standard Oil Co.'s leasing policy?

Mr. HEWETT. No. It is changed from time to time.

Mr. SNYDER. Proceed with your statement.

Mr. HARTLEY. May I call attention to a fact that Mr. Hewett has overlooked here? Awhile ago, when he spoke of maintaining a comfortable margin, he was referring to the station at 3971 Broadway. He did not tell the story of the destructive competition that he met at Fourteenth and Broadway, which today, while I took lunch with Mr. Hewett and his wife, Mrs. Hewett confided to me that Woody would frequently have to give her $5 on Saturday--wasn't it?—to last the family the whole week. That was all they could get out of the station. That was chiefly because immediately across the street from that Texaco station that Woody operated, and on which he lost money, a Sinclair station operated at 4 cents off, and that competition was positively destructive.

Mr. SNYDER. Mr. Hewett, probably I should ask a couple more questions on this credit-card situation. It isn't very clear to me. A customer with a Texaco credit card drives in your station. You sell him 5 gallons of gasoline. What operation do you go through to get reimbursed for the 5 gallons?

Mr. HEWETT. Record his sale upon the form furnished——

Mr. SNYDER (interposing). By the Texas Co.?

Mr. HEWETT. By the Texas Co.; get his signature to the amount of the purchase. He takes the original invoice, the original copy of the invoice. The other two I give to the driver in payment for supplies.

Mr. SNYDER. Do you know at what price the Texas Co. bills him for the gasoline he purchased?

Mr. HEWETT. I have no way of knowing, except possibly for one thing. I don't have any way of knowing whether or not this exists. Our district happens to be designated by the letter "E." Certain national concerns, I notice, operating in our district and securing their credit cards through our district, might have a "C" in front of that. Now, whether that means "commercial" accounts, entitled to discount, I don't know. So far as I am concerned, I write it up at my posted price.

Mr. SNYDER. And they credit you at the posted price?

Mr. HEWETT. They credit me with the posted price, or whatever I put on my invoice.

Mr. SNYDER. You don't know any holders of credit cards well enough to ask them what price they pay?

Mr. HEWETT. Usually the type of customers that have those contracts don't know themselves. In the organizations they are working for or represent they are salesmen or auditors or traveling men representing maybe some firm in Chicago, and that "CE" is the only designation on there that is different from the individual credit card. I have no way of knowing. So far as I am concerned, the sale is completed at my station, I get my posted price for it, and they allow me exactly that. They make no distinction between those two different types, if there is a difference.

Mr. SNYDER. Proceed with your next point, Mr. Hewett.

Mr. HEWETT. The fourth type of retail outlet we have, and I wouldn't say retail outlet, the fourth type of outlet, is where the public, or a portion of the public gets gasoline, through business houses or manufacturers or industrial firms, and sometimes otherwise, not for use in their own consumption and in their own ve-

hicles. Just a couple of illustrations of that. I have no quarrel with them, understand, getting their gasoline where they can buy it cheaper. That is only the human thing to do. But it does take some of our potential gallonage away from us and forces us to get a higher margin on the balance in order to maintain a scale where we can get by.

Perhaps a couple of illustrations will explain that. The Kansas City Power & Light of Kansas City, Mo., has on its pay rolls approximately 400 what we term "O" series automobiles. They are owned by private individuals. They are furnished gasoline and were, until about a year ago, furnished all the accessories and tires at the purchase price of the Kansas City Power & Light, which was less than we can buy for.

As a group of individuals there are the employees in the United States post-office garage, where they have assembled together and purchased gasoline from the tank wagon, purchased motor oil in quantities, and that portion of the business we have no opportunity to get.

In Kansas City there are 308 of those different firms and industries and groups buying direct from the tank wagon and servicing private automobiles. It might be significant in that particular area, the information was supplied to me by one of the managers of one of the large oil companies that through the retail outlets we only distributed 46 percent of the total consumption in the area. The other 54 percent went through industrial firms or consumer users, a portion of it finding its way to the private automobile by companies who purchase for their own use.

Mr. AVILDSEN. Mr. Hewett, in that 54 percent are the Rochdale cooperatives included?

Mr. HARTLEY. A very small percentage would be through that. In Kansas City, Swift & Co., for instance, buys in great gallonages from the major oil companies and sells directly to their employees. We complained about that to the Social Security Board, claiming that it was a form of compensation which should be recognized for social-security tax purposes. We obtained no results. Union Wire Rope and a lot of other companies, practically all the big companies of Kansas City, with the exception perhaps of Armour, follow that practice. I understand those fellows are well paid anyhow.

Mr. AVILDSEN. Do they sell that gas at cost?

Mr. HARTLEY. No. They sell it sometimes at cost and sometimes at a little better than cost. Most of the time at cost. It is my understanding that Swift & Co. sells it at cost, and that they actually lose some money by the sale. I said "my understanding," but I have had pretty good information on it.

SUGGESTIONS TO THE COMMITTEE

The CHAIRMAN. Do you have any suggestions to make to the committee?

Mr. HEWETT. There are certain suggestions that we have. We have just a suggestion—it may work; it may not; we don't know; we are not in a position where we can see every factor of the industry as it operates. We have access to none of that information except what

we come in contact with in actual experience, so any suggestion we might make might be entirely wrong. Possibly, if the Internal Revenue Bureau would recognize employee status when any type of control or management is exercised by the supplier—I say it is just a suggestion. It might work; it might not; we don't know.

We do have another suggestion: Possibly minimium guaranties accompanying a lease, so that the lessee and his employee would be assured of a living wage.

The CHAIRMAN. The guaranty to be made by whom?

Mr. HEWETT. The guaranty to be made by the supplier.

Mr. SNYDER. That would't take care of the consumer, would it?

Mr. HEWITT. We don't believe that that should be done at the expense of the consumer. I am sure I don't know how it would operate; I am not in the position to say; I am just a little fellow out there trying to actually live, and those are the conditions that I find; and as I say, we can't see the whole picture. We know that, so far as we are concerned, as a whole we are suffering.

Mr. O'CONNELL. Isn't that suggestion that you just made something in the nature of a resale price maintenance proposition?

Mr. HEWETT. No; I don't consider it that.

Mr. O'CONNELL. Instead of imposing a minimum resale price——

Mr. HEWETT (interposing). No; I didn't intend to infer that might include a minimum resale price. I intended to infer a minimum guaranty of income, sufficient that the lessee and his employee could live decently. Where the income would come from—that would be up to discussion. We don't believe that it should be done and affect our consumer. We are very much wrapped up in that, in this way, that as Mr. Hartley read a paragraph this morning, the consumer is our paymaster. I don't receive one penny from the Texas Co. in the way of salary, and whatever affects the consumer naturally affects me.

We do believe if a lot of these inequities were adjusted—I am talking of tank-wagon prices—that if I were at liberty and felt that I could enjoy a business for a length of time, I wouldn't hesitate to make connections where I could buy cheaper. It is that fear of extermination, when I have seen the price drop many years ago 6.6 overnight. There are none of us that would stand that over 30 days—competition of that type.

That price was maintained for the obvious purpose and the express purpose of weeding out some of the marketers who were maintaining a lower retail price.

We think that there should be a redistribution of profits, including everybody interested in the whole business, including the consumer. It is an actual fact that we read these statements of income and profits made by the major oil companies when some of us who have children who are not really properly clothed. That is not only literally true, it is actually true. And then we wonder why we work 10, 12, and—I have put in consistently for 6 months at a time—15 hours a day.

The CHAIRMAN. You don't offer any opinion as to the price which the retailer has to pay for his gas, as to whether that is too high?

Mr. HEWETT. I think it is too high. It seems, if I might draw this conclusion, that if I can buy gasoline a cent cheaper with all the privileges I have now from another major supplier through a jobber,

that at least there should be some flexibility in there that we could lower the tank wagon price of the major suppliers.

The CHAIRMAN. That is an opinion. Is it based on observation?

Mr. HEWETT. Just an opinion based on my own observation.

Mr. HARTLEY. May I suggest, Mr. Chairman, we did have one case in the Greater Kansas City area, where for some period of time while gasoline was being sold to the major stations from their tank wagons at 10.9 cents, that an independent company, the Wilcox Co., was supplying a station within the same area, in the same locality, and the gas was being sold to the public at 8 cents per gallon, while the major oil company leased stations and merchandising stations were having to pay 10.9 cents for the same grade of gasoline which we had tested by the Ethyl Corporation Laboratories and it tested out to be equal to Standard Red Crown. In other words, the buying price of the major oil company leased stations was 10.9, tax included, while the selling price to the public through the independent station was 8 cents, tax paid by the retailer or the public.

The CHAIRMAN. Who bore the difference?

Mr. HARTLEY. No one that I know of. I only know that it happened. I assume there must have been some of that difference borne by the refiner.

The CHAIRMAN. But you have no knowledge about it.

Mr. HARTLEY. I just know that between the two they got 5 cents, because there was 3 cents tax.

The CHAIRMAN. Do you have any other suggestions as to remedy of the conditions described?

Mr. HEWETT. No; as individuals or as a group we would welcome the opportunity to learn more of the whole structure, then maybe we would be in a position to offer some assistance. This is the first time that we have had an opportunity to learn a great deal of the structure of this giant.

The CHAIRMAN. Have you any more questions, Mr. Snyder?

Mr. SNYDER. No.

The CHAIRMAN. Do the committee have any more questions?

The committee will, I understand, hear Mr. Orvis.

The committee then will stand in recess until 10:15 in the morning.

(Whereupon, at 3:40 p. m., a recess was taken until the following morning, Friday, October 13, 1939, at 10:15.)

INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

FRIDAY, OCTOBER 13, 1939

UNITED STATES SENATE,
TEMPORARY NATIONAL ECONOMIC COMMITTEE,
Washington, D. C.

The committee met at 2:30 p. m., pursuant to adjournment on Thursday, October 12, 1939, in the Caucus Room, Senate Office Building, Senator Joseph C. O'Mahoney presiding.

Present: Senator O'Mahoney (chairman), Representative Williams, Messrs. Frank, Henderson, O'Connell, Lubin, and Brackett.

Present also: Clarence Avildsen, representing the Department of Commerce; William T. Chantland, representing the Federal Trade Commission; Quinn Shaughnessy, representing the Securities and Exchange Commission; Representative Mapes (Michigan); W. B. Watson Snyder, Hugh Cox, F. E. Berquist, and Christopher Del Sesto, Special Assistants to th. Attorney General; Leo Finn and Roy C. Cook, Department of Jus ' e.

The CHAIRMAN. The committee will please come to order. ..e witness this afternoon is to be Mr. Orvis. Will yo. come forward, please?

You were sworn the other day when you appeared, were you not, Mr. Orvis?

TESTIMONY OF EUGENE L. ORVIS, ATTORNEY, JERSEY CITY, N. J.—Resumed [1]

Mr. ORVIS. Yes, sir.

The CHAIRMAN. Then you may be seated.

When you were on the stand a few days ago you were discussing certain letters which had come to your attention, and the chairman asked you with respect to the identification of those letters and proof of their authenticity. Since that time the secretary of the committee has endeavored to check upon the letters. Mr. Cox or Mr. Brackett, have you anything to say about these letters? Do you want to present them now, or shall we present them th. ugh Mr. Orvis?

Mr. COX. Mr. Orvis, as I understand, has prepared a short statement which he would like to make to the committee, which will cover some of the material contained 'n these letters, and I suggest that he make the statement, and as he refers to the letters, Mr. Brackett and I can furnish to the committee the authentication that Mr. Brackett has collected.

The CHAIRMAN. Very well.

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[1] Mr. Orvis' previous testimony, on October 5, 1939, appears in Hearings, Part 15.

Mr. ORVIS. Mr. Chairman, I have filed with this committee a written statement.[1] This oral statement will present in summary form the more important and significant points which are covered in full in the written statement which I have filed with the committee.

TRANSPORTATION PRACTICES

Mr. ORVIS. At the outset, I would point out that I am primarily interested in transportation matters as they exist in the petroleum industry. It is only as to those matters that I feel that I am qualified to speak. For that reason I have attempted to confine my statement to matters which directly relate to transportation practices.

Furthermore, in preparing my statement I have attempted to confine myself to facts which seem likely to be of particular interest and significance to this committee. I realize that this committee is interested primarily in any or all practices which tend to create monopolistic power or to concentrate economic control in only a part of an industry and, in general, in practices which restrict the free play of individual enterprise.

My experience has convinced me that certain transportation practices work to the advantage of the large integrated major oil companies and to the disadvantage of their independent competitors. It is my purpose to point out to the committee certain specific practices which I believe lead to this result.

I shall begin by pointing out that in many cases the policies of the railway companies tend to favor the large integrated major oil companies at the expense of the smaller competitors. Let me make it clear that I do not believe that this situation is entirely of the railways' choosing. The major companies ship or control the shipment of an enormous volume of petroleum products, and I agree with what Interstate Commerce Commissioner Clyde B. Aitchison said in his formal opinion, filed last week, after a proceedings involving petroleum transportation in the western part of the United States. I shall read just one sentence from page 734 of the Traffic World of October 7, 1939. [Reading:]

> Commissioner Aitchison, who, with Examiner Disque, held the hearing, dissented, saying he regretted that he could not approve the adjustment here made of a situation in which major oil companies in California—

Now the magazine quotes—

> "determined to block effective competition in the Inland Empire with Montana produced petroleum products, are using the common carriers by rail and highway and private water carriers as mere pawns in a deadly and determined commercial struggle."

Mr. COX. Will you tell us what the name of that case is?

Mr. ORVIS. It is called I. and S. 4614, petroleum between Washington, Oregon, Idaho, and Montana and cases joined with it. The latter are: I. and S. No. 4623, petroleum, Spoken to Washington; I. and S. No. M–737 petroleum and products, Umatilla, Oreg., to Washington; No. MC (that is motor carrier) C–125, petroleum over motor carriers' routes in northwest; No. 28048, Independent Refining Co. et al *v.* Camas Prairie et al; and No. 28048 (sub No. 1), Standard Oil Co. (Indiana) *v.* Same et al.

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[1] Admitted, infra, p. 9125, as "Exhibit No. 1293," appendix, p. 9330.

The CHAIRMAN. These numbers and symbols refer to cases before the Interstate Commerce Commission?

Mr. ORVIS. Yes, sir.

Mr. COX. Docket numbers.

Mr. ORVIS. Investigation and suspension dockets.

It is my belief that the major oil companies do not hesitate to use the power which they thus possess to persuade the railways to adopt policies which favor the major companies. I shall give you some specific instances which I believe support this opinion.

For example, let us consider the situation which existed in 1936. On behalf of a number of independent refiners operating in Arkansas, certain railways proposed to establish a new rate from the Arkansas field to Memphis, Tenn., and Greenville, Miss. These Arkansas refiners were of the belief that a rate reduction was necessary if they were to be able to compete in that field with the majors. They suggested to the railroads that if they did not get the rates they would construct a pipe line for part of the distance and carry their products by water for the remainder of the distance.

I have an authenticated copy of a letter dated November 12, 1936, addressed to the Chicago, Rock Island & Pacific Railroad, and the Missouri Pacific Lines, by the Mid-Continent Petroleum Corporation, objecting to this rate reduction and containing these significant statements.

Mr. COX. Before Mr. Orvis reads that letter I perhaps should say that Mr. Brackett has received a letter dated October 11, 1939, on the letterhead of the Mid-Continent Petroleum Corporation, signed by J. C. Denton, vice president, which authenticates the letter which Mr. Orvis is about to read, except that the authentication shows that the letter which Mr. Orvis is about to read was dated December 12, 1936, instead of November 12, 1936. The text of the letter, however, seems to be the same.

Is it the committee's pleasure to put these authentications in the record?

The CHAIRMAN. I think it would be well to do that.

Mr. COX. Then at this point, perhaps, I should offer that.

The CHAIRMAN. The letter may be received and inserted in the record unless there is objection. There being no objection, it will be so ordered.

(The letters of authentication referred to were marked "Exhibit No. 1268," and are included in the appendix on p. 9311.)

The CHAIRMAN. Proceed, Mr. Orvis.

Mr. ORVIS. One paragraph of this letter starts [reading from "Exhibit No. 1268"]:

> In our letter of November 5, addressed jointly to you gentlemen along with freight traffic officials of seven other Southwestern lines and Chairman Cleveland, we believe we made our position with respect to the proposed rates perfectly clear.

And it finishes—

> In consideration of all of these facts, please be advised that if your lines now by definite notice establish the rates sought by these Arkansas refiners and thereby discard and disregard the interests and welfare of other refiners in the Mid-Continent field such as this company, we can then only view your action as unfriendly to us and will naturally be compelled to bear it in mind in the future.

Copies to seven traffic managers of major oil companies and to the traffic manager of the Great Lakes Pipe Line Co.

Mr. Cox. Do you know whether that rate reduction was in fact ever made?

Mr. Orvis. It was not.

The Chairman. Was this request for a rate prosecuted before the Interstate Commerce Commission or abandoned?

Mr. Orvis. No; it was only before rate committees.

The Chairman. It was where?

Mr. Orvis. It was before—rather freight committees.

The Chairman. Freight committees of the railroads?

Mr. Orvis. Yes.

The Chairman. And it was with regard to what the freight committees were doing that this letter was written?

Mr. Orvis. I can be a little more explicit, Mr. Chairman. May I read the first paragraph, just one paragraph? [Reading from "Exhibit No. 1268":]

With further reference to Southwestern Freight Bureau Proposal 9648 covered by Mr. Gutsch's file B. 112188, Mr. Bogan's file H-11488-41—

And those are the gentlemen to whom the letter is addressed—

and which proposal failed of approval before the General Traffic Committee as well as the Executive Committee of the Southwestern Lines, we now understand that the Missouri Pacific and Rock Island Lines, proponents of this proposal, are giving serious consideration to the matter of establishing the rate sought to Memphis and, if the concurrence of the Illinois Central System can be secured, also establish the proposed rate to Greenville, Miss.

It was therefore a matter which had had hearing and declination before the freight traffic committee, and the railroads were of a mind to go further with it.

The Chairman. You interpret the letter as a protest against further consideration of a rate reduction, and then you state to us that so far as you know, after this protest was filed no reduction was announced.

Mr. Orvis. Not as far as I know; yes, sir.

PROPOSED TRANSPORTATION AGREEMENT

Mr. Orvis. Now, let us pass on to another example which is even more interesting. The discussion of this situation may well begin with the introduction into the record of a memorandum written by the president of the Association of American Railroads, and dated January 17, 1935, addressed to executives of 13 major oil companies.

Mr. Cox. Mr. Chairman, that memorandum has been authenticated by Mr. J. J. Pelley in a letter addressed to Mr. Brackett, dated October 9, 1939, and signed by Mr. Pelley, with this exception: He says that the memorandum is correct except that on page 4, the first sentence of the third paragraph, the word "operative" which appears in the Orvis memorandum, should in fact be "effective." I offer this.

The Chairman. This is the memorandum which Mr. Orvis was presenting at the time the committee requested him to stand aside?

Mr. Cox. That is correct, and that is the letter of authentication.

The Chairman. This is a letter from Mr. Pelley to Mr. James R. Brackett, executive secretary of the committee, authenticating the letter offered by Mr. Orvis?

Mr. Cox. That is right.

The CHAIRMAN. Without objection this will be admitted to the record.

(The memorandum and letter of authentication referred to were marked "Exhibit No. 1269" and are included in the appendix on p. 9312.)

Mr. ORVIS. The memorandum reads as follows [reading from Exhibit No. 1269]:

Re: Memorandum of discussion regarding transportation of petroleum products in the Southeast:

Based upon discussion with Mr. Cleveland, it is my understanding that in view of certain conditions to be later referred to herein, you have stated that in the Southeast you will discontinue trucking from your water terminals or refineries to the interior for distances in excess of forty to fifty miles, which is the approximate limit of the customary filling station distribution, whether service by truck for greater distances is being performed by outside agencies or by trucks of your company, and that you will simultaneously discontinue delivering these products to dealers' or buyers' trucks at your water terminals or refineries.

Railroads in Southeastern territory, in order to make this arrangement an effective one and to stabilize the distribution of these products, will use their best efforts to bring about a readjustment of inter-territorial rates on these products into Southeastern territory on the same rate level as fixed by the Interstate Commerce Commission within that territory, it being recognized that in order to make this change in freight rates it will be necessary to obtain relief from outstanding orders of the Interstate Commerce Commission.

Railroads in Southeastern territory will reform as rapidly as seems advisable, existing leases covering railroad property used for filling station purposes. They will discourage future leases of this character, and will in no case make such leases on terms more favorable to lessees than under the reformation plan.

It is suggested that above arrangements become *operative*[1] May 1, 1935, unless some other date——

The CHAIRMAN (interposing). Is that the sentence in which Mr. Pelley suggested the change?

Mr. ORVIS. Yes, sir.

The CHAIRMAN. So it should read "that above arrangements become effective."

Mr. COX. That is correct.

Mr. ORVIS (reading):

effective May 1, 1935, unless some other date as early as possible will better suit your necessities. It is understood that the above arrangements will continue in effect until your company or the railroads involved decide that they are not working satisfactorily, in which event sixty days' advance notice of the termination of these arrangements will be given, and upon receipt of such notice from any company I will promptly notify the other interests involved.

The CHAIRMAN. Mr. Pelley states in the letter of authentication that this arrangement was never made effective.

Mr. ORVIS. Yes, sir.

I call your attention to the fact that the agreement set forth in this memorandum contains several different aspects. One, the major oil companies operating in the Southeast were to discontinue trucking from their water terminals or refineries to the interior, except for short hauls of from 40 to 50 miles. Trucking was to be discontinued whether the trucking was done by outside motor carriers or by the major companies' own trucks.

Second, these major oil companies were to discontinue delivering their products to dealers' or buyers' trucks at water terminals or

[1] "Effective" in the original document.

refineries. This meant, of course, that dealers or buyers would be compelled to use the rails if they wished to purchase from these major oil companies.

Third, the railroads, on their part, pledged their best efforts to bring about a readjustment of rail rates from the southwestern refinery area into the southeastern territory to the somewhat higher rate level fixed by the Interstate Commerce Commission for rates within the southeastern territory.

The interterritorial rates into the southeastern territory which the railroads agreed to use their best efforts to raise were the rates which would have to be paid by independent refiners of the Southwest if they wished to ship into that territory. Since the major companies were shipping entirely by marine tankers from the Gulf coast, there was no necessity for them to use rail transportation into the territory. Raising the rail rates which it was necessary for the independents of the southwestern territory to pay would create an additional barrier for the independents to overcome if they wished to compete in the southeastern territory.

Fourth, the railroads also agreed to reform as rapidly as seemed advisable their existing leases covering railroad properties used for filling station purposes. They were to discourage future leases of this character and were in no case to make such leases on terms more favorable than those which apparently had been agreed upon by the railroads and the major oil companies. And, of course, in connection with all this, there would be a new scale of motor competitive rates published for the rail movements.

I have in my possession authenticated correspondence passing between the railroads and the major oil companies showing that this arrangement had been under negotiation prior to January 17, 1935. The arrangement had been under consideration at least since the previous November, and in that period and also subsequent to January 1935 the various parts and details of the arrangement were considered at meetings held by the railroads and the major oil companies, and by correspondence which was exchanged between them. In the belief that the background and the subsequent arrangements with respect to this agreement are relevant, and will be interesting to this committee, I offer this authenticated correspondence.

Mr. Brackett. There are three letters from the Texas Co., I believe, that Mr. Orvis has. Mr. Ray, counsel for the Texas Co., personally authenticated those letters to me.

The Chairman. Who is Mr. Ray?

Mr. Brackett. Mr. Ray is counsel for the Texas Co.

The Chairman. What is his full name?

Mr. Brackett. George W. Ray.

The Chairman. Is he in Washington?

Mr. Brackett. He is in the room now.

The Chairman. And he personally authenticated these letters to you?

Mr. Brackett. Personally.

Mr. Orvis. This letter of November 16 is from the Texas Co. to Mr. J. E. Tilford, chairman, Southern Freight Association, Atlanta, with copies to eight companies, and it says that he will be at the

meeting of which he has had notice, to be held on November 28. The next is a letter dated November 30, 1934, from the Texas Co. to the Southern Railway System, Seaboard Air Line Railway, Atlantic Coast Line Railroad, and Norfolk Southern Railroad. The first paragraph contains what the letter says [reading from exhibit No. 1270]:

Following joint conference with you gentlemen the morning of November 28, 1934, traffic representatives of Southern petroleum shippers met in conference that afternoon in an endeavor to agree on a scale of rates which it was felt would enable the Southern lines to meet truck competition.

And this is the scale of rates prepared for that purpose. Copies to nine major companies.

The CHAIRMAN. Is that similarly authenticated?

Mr. BRACKETT. Yes, sir.

The CHAIRMAN. These letters and memoranda all have to do with a conference of representatives of the major oil companies with respect to the subject matter of the memorandum addressed to the petroleum companies by Mr. Pelley which has been authenticated by Mr. Pelley and admitted to the record?

Mr. ORVIS. Yes.

(The letters referred to were marked "Exhibit No. 1270" and are included in the appendix on p. 9313.)

Mr. ORVIS. Next is a letter dated December 12, 1934, from the Standard Oil Co. of Kentucky, Louisville, Ky., office.

Mr. COX. The letter which Mr. Orvis now is referring to has been authenticated in a letter addressed to Mr. Brackett, dated October 12, written on the letterhead of the Standard Oil Co. of Kentucky and signed by W. E. Smith, president. This is the letter of authentication.

The CHAIRMAN. The letters may be admitted.

(The letters referred to were marked "Exhibits Nos. 1272 and 1271," respectively, and are included in the appendix on p. 9315.)

Mr. ORVIS. The letter is addressed to the Seaboard Air Line Railway, Southern Railway, Atlantic Coast Line Railroad and Norfolk Southern Railroad and starts—

With reference to letter to you gentlemen under date of November 30th from The Texas Company—

and contains this which I think should be noticed [reading from "Exhibit No. 1272"]:

It might not be amiss to state at this time that the various marketing divisions of the petroleum industry at large are giving serious consideration to the agitation for a new price structure similar to that in the north-central portion of the country to the extent of reflecting the element of rail transportation costs in the posted prices for gasoline and refined oils at the many jobbing and bulk distributing centers in the territories served by your rails. This new development in the marketing phase of the petroleum industry quite naturally contemplates the observance of the present level of petroleum rates as the minimum cost of rail transportation, and the defense of such minimum level in the representation that there is much water and truck transportation at the present time at costs to the industry so much less than the possible transportation costs via rail under any distance scale that may be devised as to justify the prediction that perhaps in the early part of next year, if not sooner, the petroleum industry may deem it advisable to resist unnecessary reductions in rail rates that would be most unattractive at any figure.

Mr. Cox. What significance do you attach to that passage?

Mr. Orvis. Speaking as a qualified transportation man and only that, I can only say that if the intent was, or at least the intent was to speak of an arrangement similar to that in this north-central part of the country where the prices to customers included the freight item set forth. This has to do more with marketing. I don't profess to know all there is to know about that.

The Chairman. This was a protest against a reduction.

Mr. Orvis. No, sir.

Mr. Cox Was this the same discussion of the Pelley memorandum?

Mr. Orvis. This was written December 12 and the memorandum was on January 17. I just want to finish one sentence.

The Chairman. December 12, what year?

Mr. Orvis. 1934.

Mr. Cox. Does it relate to the same arrangement which was discussed with Mr. Pelley?

Mr. Orvis. Yes. The heading is "Southeastern Petroleum Rates," and the letter ends [reading further from "Exhibit No. 1272"]:

> I am therefore simply calling your attention to a recent development which is attracting much attention from the marketing division of our respective companies in such a manner as to warrant and justify the prediction that unless certain of the Southern rail lines act promptly to cure the situation with which they are confronted, all of the traffic representatives of the oil companies may be compelled to present a solid front and united effort to resist freight rate reductions of no particular benefit to the carriers when made, but likely to become a disturbing element in the new basis for a price structure now in contemplation for Southern territory.

The Chairman. Then that sounds like a protest against a reduction, or a contemplated protest against a reduction of freight rates.

Mr. Orvis. No, sir. [Reading from the same exhibit:]

> It might not be amiss to state at this time—

he started the paragraph. As a matter of fact, the next letter indicates that they were not entirely——

The Chairman (interposing). May I see the letter, please? This copy has been authenticated by the traffic manager, whose signature is here, traffic manager of the Standard Oil Co. of Kentucky, but I am unable to read the signature. Can you state what that is, Mr. Brackett? Is it A. M. Stephens? It apparently is: S-t-e-p-h-e-n-s; A. M. Stephens is the name on the letterhead.

The sentence which you were just reading is as follows [Reading from "Exhibit No. 1272"]:

> It might not be amiss to state at this time that the various marketing divisions of the petroleum industry at large are giving serious consideration to agitation for a new price structure similar to that in the north-central portion of the country to the extent of reflecting the element of rail transportation costs in the posted prices for gasoline and refined oils at the many jobbing and bulk distributing centers in the territories served by your rails.

I take it that this is a remark or an observation by the author of this memorandum to the effect that an agitation has been in progress for a new price structure of petroleum products?

Mr. Orvis. Mr. Chairman, I don't know what that means at all.

The Chairman. Then the concluding sentence which you read, and which I now read:

> I am therefore simply calling your attention to a recent development which is attracting much attention from the marketing division of our respective com-

panies in such a manner as to warrant and justify the prediction that unless certain of the Southern rail lines act promptly to cure the situation with which they are confronted, all of the traffic representatives of the oil companies may be compelled to present a solid front and united effort to resist freight rate reductions of no particular benefit to the carriers when made——

Now I asked you if that was not a statement that the author of this memorandum was opposing freight reductions, and I understood you to say "no."

Mr. ORVIS. I still say so, sir. It is predicted that they all would.

The CHAIRMAN. That they all would what?

Mr. ORVIS. Oppose reductions which they didn't——

The CHAIRMAN (interposing). Exactly. "Resist freight reductions"; is that what you understand it to be?

Mr. ORVIS. Yes; but I think you will find in that letter that he himself says as far as these are concerned this company is in accord.

The CHAIRMAN. What is the meaning of this memorandum as you read it? I am just trying to get an interpretation of what it means.

Mr. ORVIS. It is a difference of opinion on the part of one company, which is referred to in the next letter where, his opinion is questioned and the railroads are told by the writer of the next letter that he does not represent——

The CHAIRMAN (interposing). Let's forget the next letter. I want to know what this letter means in your mind. What does this letter mean?

Mr. ORVIS. A market-price structure was in his mind as something of the future. That is all it means to me.

The CHAIRMAN. Well, what sort of a market structure? Of course, there was to be a market structure.

Mr. ORVIS. A new one, similar to that which is in the North Central portion of the country.

The CHAIRMAN. What did freight have to do with it?

Mr. ORVIS. It is better told in those words there [reading from "Exhibit No. 1272"]:

To the extent of reflecting the element of rail transportation costs in the posted prices for gasoline and refined oils at the many jobbing and bulk distributing centers in the territory served by your rails.

The CHAIRMAN. All right, was he protesting against an increase or a prospective increase or was he urging a reduction or objecting to a reduction of freight rates?

Mr. ORVIS. He says, Mr. Chairman, in another paragraph [reading from the same exhibit]:

We are entirely in accord with the representation for the necessity of the rail carriers establishing such a level of rail rates where the conditions justify that equalization for account of the rail carriers.

Mr. FRANK. If you go on with the next letter will that help you?

Mr. ORVIS. I think it will.

Mr. FRANK. I suggest the witness put in the next letter and then we can go back.

The CHAIRMAN. Very well.

Mr. ORVIS. The letter is December 31, 1934.

Mr. BRACKETT. This is another of the letters which was authenticated by Mr. Ray.

The CHAIRMAN. Of the Texas Co.?

Mr. BRACKETT. Yes.

The CHAIRMAN. Very well.

(The letter referred to was marked "Exhibit No. 1284" and is included in the appendix on p. 9326.)

Mr. ORVIS. The letter from the Texas Co. is addressed to the Southern Railway, Seaboard Air Line, Atlantic Coast Line, Norfolk Southern Railroad [reading from "Exhibit No. 1284"]:

> It appears that Mr. Stephens by his letter of December 12 is attempting to express the views of the Southern petroleum shippers generally, which is not correct so far as the Texas Co. is concerned, and Mr. Stephens is not authorized to represent this company in the matter.

There is a difference of opinion between the traffic men.

The CHAIRMAN. Well, what are you seeking to prove by these letters?

Mr. ORVIS. These all had to do with a situation in November and December 1934, and January and succeeding months as to the reduction of the rates by the railroads in southeastern territory.

Mr. FRANK. That reduction was suggested by whom?

Mr. ORVIS. By the oil companies.

Mr. FRANK. Major companies?

Mr. ORVIS. Yes, sir.

Mr. FRANK. They sought a rail rate reduction?

Mr. ORVIS. Yes.

Mr. COX. Mr. Orvis, let's take this letter of December 31, 1934, which the chairman was just asking about,[1] and you look at that letter. Isn't it a fair construction of that letter to say that the writer in the first place is in favor of the rate reduction over short hauls or comparatively short hauls in the southeastern territory which had been suggested or was under consideration as shown in the Pelley memorandum? Is that correct?

Mr. ORVIS. Yes.

Mr. COX. But he objects to the reduction of rates on longer hauls where the deliveries of products might be made with advantage by the major companies from water terminals. Is that not right?

Mr. ORVIS. No. The objection as I read it was in favor of his own company, that is all. He was putting in a word, as he should, for his own company and its terminals.

Mr. COX. Very well, taking that correction, look at the last page of the letter, the bottom of page 2 and the top of page 3, start on the bottom of page 2 and look at the top of page 3. Tell us what that means there.

Mr. ORVIS. He was speaking about his own terminals and saying this [reading further from "Exhibit No. 1272"]:

> However, we do not recommend nor do we want such a basis for rates that projects itself into some more distant territory that can be reached more economically from another water terminal in a more distant area as would be the case of our distribution out of a terminal at Panama City to such points as Tallahassee, Fla.; River Junction, Fla.; Columbus, Ga.; and Quincy, Fla.

Mr. COX. All right, now in the third place, isn't it fair to say that he also makes a point in that letter that unless the railroads can correct the situation with respect to the rates prevailing on short hauls in the southeastern territory, that the oil companies may adopt some other form of transportation and resist those rail reductions if they are proposed later.

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[1] "Exhibit No. 1284," appendix, p. 9326

Mr. ORVIS. Yes.

Mr. FRANK. You made the statement that this discussion and these letters throw some light on monopolistic practices of the major oil companies. Now, will you in that context explain what bearing these letters have on your statement that there were monopolistic practices or attempts to create them?

Mr. ORVIS. In my written statement[1] I said the continual exchange of policy and plans that takes place combines the full shipping strength of a number of large companies and uses it as one. These latter are all addressed to each other.

Mr. FRANK. And what were they endeavoring to do that you consider monopolistic and injurious to the smaller competitors?

Mr. ORVIS. Well, the memorandum read first has those characteristics, as I see them.

Mr. FRANK. And what is the bearing of these letters on that?

Mr. ORVIS. This was all part of that preparation.

Mr. FRANK. To do what?

Mr. ORVIS. To do the things indicated in this letter.

Mr. FRANK. Which are what, in your opinion?

Mr. ORVIS. One was the reformation of leases, one was to use best efforts to fix the rate situation to better advantage for the shippers by tanker from the Gulf coast. Another thing was that they would discontinue using trucks of their own or of other people over 50 miles, and they would not sell except on the condition that purchasers bought their commodities and took delivery by rail. That was in the memorandum.

Mr. HENDERSON. But whom would this hurt and whom would it help?

Mr. ORVIS. The independent refiners in the South—

Mr. FRANK (interposing). Would be hurt?

Mr. ORVIS. Very much so.

Mr. HENDERSON. And they were not participants in these negotiations?

Mr. ORVIS. They were not.

Mr. FRANK. Why would it hurt them?

Mr. ORVIS. Because it would raise the rate wall, the only rate wall that they could use, which was by rail from the Southwest to the Southeast. They did not have tankers.

The CHAIRMAN. Now, as I read the original memorandum and this recent memorandum of the traffic manager of the Standard Oil of Kentucky, the one particular point seems to become clear, namely that the railroad memorandum suggested to the companies that if these companies should abandon trucking their products from the water terminals over distances not to exceed 50 miles, the railroads, in consideration of that abandonment of the use of trucks, would reduce the rates for freight transportation.

Mr. ORVIS. That's it, plus all these other phases.

The CHAIRMAN. I am leaving those out for the minute, because I want to get one idea at a time.

Then Mr. Stephens' memorandum was to the effect that this arrangement should not be made to cover distances in excess of 150 miles.

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[1] "Exhibit No. 1293," appendix, p. 9330.

Mr. ORVIS. That's right.

The CHAIRMAN. In other words, he wanted the contract to be bound at the lowest end by 50 miles and at the highest end by 150 miles.

(The witness nodded in the affirmative.)

The CHAIRMAN. And that reduction of freight rates over long hauls in excess of 150 miles might be injurious to his company, because his company apparently had the facilities with which to bring about transportation and secure deliveries at rates which would be injuriously affected so far as their company was concerned by the lower rates of the railroads?

Mr. ORVIS. I think I could make it clearer than that.

The CHAIRMAN. I have no doubt.

Mr. ORVIS. You have two refineries or two terminals within 300 miles of each other. A schedule of rates going to 250 miles, of low level, would enable one refiner to go over closer to the other refinery. He wanted the limit to be 150 miles around each refinery. He thought that was better, that is all. They didn't agree with him.

The CHAIRMAN. Very well. Now this, of course, was all a discussion. Was it ever carried into effect?

Mr. ORVIS. Yes, sir.

The CHAIRMAN. All right. That is what we want to know.

Mr. ORVIS. The precise extent to which this agreement became effective is a matter as to which I cannot testify categorically. Nevertheless I have in my possession certain facts which are extremely relevant to that question. First, I have reason to believe that in accordance with the Pelley memorandum of January 17, 1935, the majors in many instances discontinued delivering their products to dealers' or buyers' trucks at water terminals and refineries. For example, in 1936 a man named S. T. Gresham, who operated the Standard Transportation Co. at Raleigh, N. C., told me that he had had to discontinue trucking operations in North Carolina, where he had been trucking for the past several years. He told me that he had come to New York to see the Standard Oil Co. of New Jersey, whose products he had been transporting formerly. He said that it was no longer possible in the Carolina territory in which he operated for purchasers of petroleum products from the major companies to arrange to have those products hauled by truck from refineries or terminals.

He told me in the presence of a witness that his purpose in coming to New York was to see about moving his fleet of trucks to Virginia, to serve the same company there in the transportation of its products. He said that he had been told that very morning by the traffic department of the Standard Oil Co. of New Jersey not to put his plan into operation, because in a short time there would be no trucking in Virginia either for him.

Furthermore, I was informed in August 1938 by Mr. H. H. Hardin, of Forsyth, Ga., an independent oil distributor in that territory, that major companies do not, as a general practice, allow the independents to haul from their terminals. This statement was made in a letter dated August 18, 1938, which I have before me. The letter is addressed to me.

And then there were, as reported in the National Petroleum News of May 6, 1936, the several suits and legal proceedings in North Carolina, one of them only now coming on for hearing on appeal this

month or next month, and I quote this one paragraph from the National Petroleum News of May 6, 1936 [reading]:

> Meanwhile a treble damage suit under the State antitrust law involving about $50,000 has been slapped on the railroads by Quality Oil Transport Co., a subsidiary of Quality Oil Co. of Winston-Salem, which is one of the largest independent oil jobbers in the South. This suit, based on the rail rates put into effect August 15, 1935, charges that the rate reduction was the result of a conspiracy among the railroads to eliminate truck competition.
>
> The proof of the lawyers' charge that the railroads have agreed by concerted action to reduce their rates to meet truck competition is contained in evidence which purports to be a copy of a letter signed by an official of a certain major oil company. It is addressed to officials of four railroads operating in this section, and there is an indication that carbon copies were sent to officials of nine other major oil companies operating in the South. This document refers to a conference in New York on November 28, 1934, at which traffic representatives of Southern petroleum shippers met with railroad officials in an endeavor to agree upon a scale of rates which it was felt would enable the Southern lines to meet truck competition.

The CHAIRMAN. What was the date of that?

Mr. ORVIS. May 6, 1936.

The CHAIRMAN. What happened at that suit?

Mr. ORVIS. I learned only last night, Mr. Chairman, that it is coming on for appeal, I think, next week or next month.

The CHAIRMAN. Was it tried?

Mr. ORVIS. Yes.

The CHAIRMAN. What was the verdict or the decision?

Mr. ORVIS. Without going through all my papers, there are so many different ones down there, I don't remember.

The CHAIRMAN. You don't know who the appellant is, then?

Mr. ORVIS. The transport company. They lost all the way along.

The CHAIRMAN. That is, the plantiff lost?

Mr. ORVIS. Yes.

The CHAIRMAN. So that the court of original jurisdiction decided against the plaintiff?

Mr. ORVIS. Yes.

Mr. FRANK. Mr. Orvis, I wonder if I can understand you. I am having a little difficulty. In your prepared statement on page 8 you make the following statement, and I want to see if this is the general line of suggestion that you are urging here. You say that [reading from "Exhibit No. 1293"]:

> The Minnesota jobber and dealer and consumer, for instance, are made to pay the all-rail freight from the Oklahoma, Kansas, or Texas refinery, even when the gasoline comes seven-eighths of the way through a pipe line and only the final one-eighth in a railroad tank car. Settlement for the gasoline is ingeniously contrived and concertedly adhered to on the basis of the freight charge that would have been collected if the movement had been entirely in a tank car, and here again, strangely, we find the railroad carriers a pliant tool of monopoly, for with the aid of these carriers, the pipe-line profits are still further increased. The lower the rail charge can be hammered down for that final one-eighth of the distance and the higher the all-rail rate can be kept up for the entire distance, the greater the profits naturally of the pipe line carrying the gasoline seven-eighths of the distance, and since the common carrier pipe line is owned by the majors, that much more do the pipe-line profits tend toward dominance by the monopoly.

Is that the general picture you are tending to indicate through these letters?

Mr. ORVIS. No; that is only the picture in the West.

Mr. FRANK. Are you indicating that they are now trying to move that same device into this other territory?

Mr. ORVIS. These general characteristics prevail throughout the country, but that is about pipe-line stuff.

Mr. HENDERSON. May I make an essay at it? In this letter of December 12 of Mr. Stephens he says [reading from "Exhibit No. 1272"]:

> It might not be amiss to state at this time that the various marketing divisions of the petroleum industry at large are giving serious consideration to the agitation for a new price structure similar to that in the North Central portion of the country, to the extent of reflecting the element of rail transportation costs in the posted prices for gasoline and refined oils at the many jobbing and bulk distribution centers in the territory served by your rails.

Does that not mean they are giving serious consideration to this same phantom freight referred to here?

Mr. ORVIS. That is just what it is. He speaks there of the north central section, understanding in all fairness that he did not speak for the others.

Mr. HENDERSON. He has hinted that he will adopt in effect a basing-point price, and regardless of the method of transportation, the all-rail freight will be included in the posted price.

(The witness nodded in the affirmative.)

Representative WILLIAMS. The primary purpose of this that you are giving now is to show that there is a conspiracy, so-called, between the railroads and the major oil companies to eliminate competition in transportation between the railroads and the truck lines; is that it?

Mr. ORVIS. That's it; yes, speaking now about only the southern portion.

Representative WILLIAMS. That's what I mean, with reference to the exhibits and the Pelley letter that has been introduced here.

Mr. ORVIS. The second point: I have no way of knowing on any large scale to what extent the railways in the southeastern territory reformed their existing leases and discouraged or discontinued the making of future leases for filling-station purposes. I do know, however, that in some localities independent oil distributors have found it impossible to lease railway property at all for filling-station or storage purposes.

I read from a letter received by me from a small distributor in Florida. His words are [reading]:

> We tried for several months to secure a location on the railroad sidetrack, but was refused by the local manager for the Seaboard Air Line, a man named Mills, who is dead now, who told me that if he allowed me to put up our tanks on the railroad right-of-way he would lose his job. I then purchased the property we now own.

Finally, as to increasing the freight barrier against southwestern refiners desirous of shipping into the Southeast, I find that on a number of occasions since that time applications for interterritorial rate reductions were quashed by mutual or concerted effort between the major oil companies and the rail carriers, even after the rail carriers had placated the southwestern refiners by proposing to establish lower rates into the Southeast for them.

For one example, letter dated May 4, 1937, Standard Oil of Kentucky.

Mr. Cox. That letter has been authenticated.

The Chairman. This is a letter of May 4, 1937, from the traffic manager, Standard Oil of Kentucky, to Mr. J. C. Beck, of the Gulf Oil Corporation. That is the one you are referring to?

Mr. Orvis. Yes, sir.

The Chairman. That has been authenticated by Mr. Stephens. The letter and the authentication may be admitted to the record.

(The letter referred to was marked "Exhibit No. 1273" and is included in the appendix on p. 9317.)

The Chairman. Proceed.

Mr. Orvis. The letter starts [reading from "Exhibit No. 1273"]:

> Recalling conversation some time ago in regard to the Southern Freight Association Emergency Proposal No. 2363, indicating proposed rate of 36½ cents from New Orleans-Baton Rouge Group to Atlanta, Ga.
>
> I have discussed this matter with our L&N Railroad friends. * * * You will understand, therefore, that for the present there need be no concern over any immediate action by the Louisville & Nashville Railroad or others for the approval of the basis sought.

That letter has copies to nine companies.

The Chairman. Now, is this dealing with the same subject as the memorandum of Mr. Pelley?

Mr. Orvis. That has to do with the interterritorial rates from Southwest to Southeast.

The Chairman. Now then, to go back for a moment, you quoted from some journal a report of the filing of a triple damage suit by a trucking company, against the railroad, based upon the allegation that the railroad had lowered the freight rate adversely to the interests of the trucking company, as a result of conspiracy with the shippers. Is that correct?

Mr. Orvis. That is correct; yes, sir.

The Chairman. Did you make a personal investigation to find out whether or not, as a matter of fact, the rate had been reduced?

Mr. Orvis. Oh, these rates were reduced.

The Chairman. Then there was a reduction of the freight rate?

Mr. Orvis. Yes, sir.

The Chairman. In this territory, following this memorandum?

Mr. Orvis. Yes; on August 15, 1935.

The Chairman. Do you have a copy of that order, that tariff?

Mr. Orvis. No. It is known as the Tilford rate scale, because of that gentleman Tilford in the Southern Rate Association who arranged the scale. It is the scale also set forth in the letter of April 26, 1935, that was here last week.

The Chairman. Have you presented that letter?

Mr. Orvis. Is that to go in? The suggestion was made that I proceed without it.

The Chairman. Let me ask the question, Have you presented that letter yet?

Mr. Orvis. No, sir.

The Chairman. Do you have it?

Mr. Orvis. Yes, sir.

The Chairman. Has it been authenticated?

Mr. ORVIS. Yes, sir.[1]

The CHAIRMAN. And that letter contains a list of these rates. And do I understand that these rates were reductions and were made effective on the 15th of August following the memorandum, following the date of the memorandum?

Mr. ORVIS. Even slightly lower rates were made effective on that date, sir.

The CHAIRMAN. Slightly lower than what?

Mr. ORVIS. Than the ones contained in this letter. In January the memorandum went forth, conferences had started in November and were continued as regards the rates, down to April 24 or 26.

Mr. FRANK. Mr. Orvis, is it your position that that rate reduction aided the major oil companies to the disadvantage of the independents?

Mr. ORVIS. Yes.

Mr. FRANK. Will you explain how?

Mr. ORVIS. The independents could truck cheaper than they could ship by rail. In fact, in many cases they had their own trucking equipment, so the independents were damaged in that way, at least. The lease situation seems to have been adverse to them.

Mr. COX. You mean they were damaged because they couldn't get delivery by truck of the major companies from their refineries to their stations?

Mr. ORVIS. That might necessarily do some harm when the rail rate was reduced below cost of transporting by truck, in certain cases. A man should use the cheapest method.

Mr. FRANK. Then how was it to their disadvantage?

Mr. ORVIS. In such cases as they had equipment of their own or contracts of other people to transport their stuff for them at a price which was better than the rail rates that were put in, they had to use the rail rates in spite of that or be without the materials.

The CHAIRMAN. Or else use their own trucks.

Mr. ORVIS. The delivery would not be made to their trucks on purchases. That was part of it.

The CHAIRMAN. Then you mean to say that it was part of this plan that the oil companies would refuse to deliver to trucks, whether they were owned by independents or whether they were trucks of the companies themselves.

Mr. ORVIS. That is right, sir.

The CHAIRMAN. And that all the oil had to be transported by rail.

Mr. ORVIS. That is it.

The CHAIRMAN. Was that done, actually?

Mr. ORVIS. Well, of my own knowledge, I know that some contracts ran for a period of some months after that and the expansion of trucking facilities was curtailed and no new contracts in many cases made with truckmen, but they had to run them out as of the time this went into effect.

Mr. FRANK. Except for those existing contracts, thereafter there was a refusal to make delivery to trucks?

Mr. ORVIS. Yes, sir; Mr. Harden said that only last year.

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[1] Admitted to the record, infra, p. 9089, as "Exhibit No. 1275," appendix, p. 9321.

Mr. Cox. You testified of two instances where that situation was explained to you by people who had been trucking; is that right?

Mr. Orvis. That is right.

Mr. Henderson. Then your opinion runs directly contrary to what Mr. Pelley said concerning whether the actual agreement became effective.

Mr. Orvis. Did he say it did not? If he said that, it does run counter to that.

Mr. Henderson. His letter says that the agreement was never put into effect, and the nature of your testimony is directly contrary, that it was in effect so far as renewals of leases and deliveries to trucks were concerned.

Mr. Orvis. I quite believe that; yes.

Representative Williams. Have these truck lines gone out of business generally? You have two instances where they had been seriously affected or had to change their location. Has it been general that the local trucking business in the oil industry has actually been curtailed?

Mr. Orvis. It was curtailed at that time but not sufficiently to suit the railroads, and in the following year, in February, a new organized effort about putting in even lower scales to assure everybody to the rails and away from the trucks, took place, and some suits of law were brought on that new lowered motor competitive rate schedule. In other words, history repeated itself the following year, and the rates were driven down still lower.

Mr. Henderson. Do you have any information concerning what happened to the growth of track-side stations after this period?

Mr. Orvis. I haven't, sir.

Representative Williams. I am not entirely clear yet as to whether or not the trucking industry has been driven out of the business.

Mr. Orvis. The trucking business has not been entirely driven out of business; no, sir.

Representative Williams. Has it been seriously affected by reason of this arrangement?

Mr. Orvis. Yes; I should say so, and it has been restricted to the short 40-50-mile hauls.

Representative Williams. The rates, however, have been reduced, the freight rates have been reduced, whether it is by truck or railroads, by reason of this arrangement that has been made here. That has been the net result of it; has it?

Mr. Orvis. Yes; but the rail freight rates were the ones that were reduced by reason of this. You said "whether by rail or truck." I say the rail rates were the ones that were reduced down to what the trucks were.

Representative Williams. They didn't go below the truck rate as it was originally established?

Mr. Orvis. No; the first reduction brought it down very close to the truck rates which were supplied by the oil companies to the railroads to set their scale on.

Representative Williams. Then when the rail rates were reduced, did the trucks reduce theirs?

Mr. Orvis. I don't doubt that they did. That was not an Interstate Commerce Commission matter as of that time.

Representative WILLIAMS. Well, some of it may be; may it not? Some of the truck business may be interstate.

Mr. ORVIS. I say of my knowledge—I have no knowledge of what happened among the truckmen, but I have no doubt they went after some business by cutting their rates where they could. Those were private arrangements.

Representative WILLIAMS. Then it has resulted in a kind of rate-cut war between the truck companies and the railroads?

Mr. ORVIS. Very much so.

Mr. COX. That is within the Southeastern territory. There has been no reduction from the Southwest into that territory.

Mr. ORVIS. No.

Mr. Chairman, I intended from this point forth, unless there is further questioning, to go to the matter of pipe-line tariffs, but here is a breaking point.

The CHAIRMAN. Have you introduced all of the letters that you propose to introduce with respect to this matter?

Mr. ORVIS. Yes, sir.

Mr. FRANK. Mr. Orvis, may I go back? Is it the implication of your remarks that the Pelley memorandum and what was done subsequently involve something like the following: That the railroads arranged with the major oil companies that they would get—the railroads would get—an advantage by putting the trucks out of business, if possible, through a reduction of the freight-rate competition with the trucks, and that on the other hand the major oil companies would gain a benefit by having the railroads deny the leases to the independent refiner?

Mr. ORVIS. That was one of the gains; yes.

Mr. FRANK. So there was a quid pro quo between them?

Mr. ORVIS. Yes.

Mr. FRANK. And that was one of the important aspects of the understanding, in your opinion?

Mr. ORVIS. It was; yes.

Mr. FRANK. That is your suggestion to the committee? I am not trying to say that your suggestion is correct. I am just trying to find out what you are suggesting.

Mr. COX. And was it also an important part of the quid pro quo that the railroads would try to get the rates into the southeastern territory from the Southwest raised?

Mr. ORVIS. Yes; they said that very clearly.

Mr. COX. And you think that part of the agreement was consummated in part, at least, because although those rates were not raised the railroads successfully resisted efforts to lower them; is that right?

Mr. ORVIS. That is right.

Mr. FRANK. Thus preventing competition from the Southwest to the Southeast, to the disadvantage of the independents and the advantage of the major oil companies; is that your point?

Mr. ORVIS. Yes.

The CHAIRMAN. Before you leave that phase of the subject, I think it only proper that there should be placed in the record here the response of Mr. C. McD. Davis, vice president of the Atlantic Coast Line Railroad, to a letter or a communication from Mr. Brackett, the executive secretary of this committee. This letter from Mr. Davis

is dated at Wilmington, N. C., on October 12, is addressed to Mr. Brackett, and reads as follows [reading from "Exhibit No. 1274"]:

Replying further to your telegram October 9th, which was forwarded to me at Orlando, Fla., and receipt of which I acknowledged in a telegram October 11th, stating that I was en route to Wilmington and expected to reach here today when I would have access to our file and answer the question propounded in your telegram.

I find upon an examination of the file that the letter in question was not written or signed by me personally but was dictated and signed in my name by Mr. J. W. Perrin, Freight Traffic Manager of this company.

We do not have the original letter but enclose herewith a certified copy of the carbon copy in our file, together with Mr. Perrin's letter of this date which is briefly explanatory of the contents thereof; also copy of the Court Order referred to in Mr. Perrin's letter.

Then the letter to Mr. McD. Davis from the freight traffic manager, signed "J. W. Perrin," dated October 15, 1939, as follows [reading further from "Exhibit No. 1274"]:

Referring to telegram dated October 9, from Mr. James R, Brackett, Executive Secretary, Temporary National Economic Committee, addressed to you, reading as follows:

"Statement filed with the Temporary National Economic Committee by E. L. Orvis contains purported copy of letter written by you to Standard Oil Company, New Jersey, Texas Company, American Oil Company, Sinclair Company, Shell Eastern, and Atlantic Refining Company dated February 10, 1936 STOP First paragraph begins 'You are advised of the steps that have been taken by rail lines at Wilmington in connection with the various other lines reaching destinations in North Carolina, etc.' STOP Last paragraph begins 'You will recall that during course of the conference between yourself and representatives of North Carolina railroads, etc.' STOP Committee has instructed me to authenticate reputed letter. Will appreciate your informing me immediately whether letter in fact signed by you and forward to me special delivery a certified copy of the letter. Committee hopes to dispose promptly of this matter so as to avoid issuance of subpoena."

A certified copy of our carbon copy of the letter described in Mr. Brackett's telegram is enclosed herewith. The original letter bears your signature, but it was dictated and signed in your name by me.

The said letter relates to contemplated reductions by the rail carriers operating in North Carolina of the intrastate rates on petroleum from Wilmington, N. C., to points throughout North Carolina.

At that time severe inroads were being made in the petroleum tonnage of the rail carriers out of Wilmington. Investigation disclosed that the traffic was moving by private trucks of the producing and distributing oil companies, as well as by contract trucks. We were further threatened with a project to initiate barge service up the Cape Fear River by which petroleum would be barged from Wilmington to Fayetteville for distribution by trucks beyond. In fact, representatives of several of the oil producing companies doing business at Wilmington advised us that if we wished to retain the traffic left to us and to prevent the diversion of additional traffic to the barge-truck route via Fayetteville, reductions would have to be made in the all-rail rates. The purpose of the conference of December 20, 1935, referred to in the last paragraph of the letter of February 10, 1936, was to develop necessary information as to the extent of the competition from a rate standpoint, and, in particular, the threatened competition with the barge-truck route via Fayetteville.

It was anticipated that there would be an effort made by interests at Fayetteville, N. C., to prevent the reductions in the rates from Wilmington from becoming effective, and the oil companies were requested to supply such information as would be helpful in the defense of the reduced rates, if they should be attacked. The letter of February 10 was merely to inform the oil companies of the injunction proceedings against the reduced rates (the City of Fayetteville having intervened in the proceedings), and to remind them of their offer of assistance in defending the rates.

The restraining order, issued by Judge Barnhill upon complaint of the Carolina Motor Service, Inc., John P Nutt Corporation and Oil Transit Com-

pany, was duly heard before Judge W. C. Harris of the North Carolina Superior Court of Wake County on March 21, 1936, and, after full hearing, Judge Harris not only dissolved the restraining order but dismissed the complaint. A copy of Judge Harris' order dismissing the proceedings is enclosed herewith. It should be added, none of the representatives of the oil companies aforesaid appeared at the hearing.

There follows the acknowledgment of this letter, and a copy of the memorandum dictated by Mr. Perrin and signed by the name of Mr. C. McD. Davis, and a copy of the judgment in the Superior Court of North Carolina for Wake County in the case just mentioned, signed by W. C. Harris, judge resident in the seventh judicial district, in which he set aside the restraining order and dismissed the action.

(The documents referred to were marked "Exhibit No. 1274" and are included in the appendix on p. 9318.)

The CHAIRMAN. This is the action to which you referred in that news report that you quoted, is it not?

Mr. ORVIS. No; that is the Quality Oil, the one that is referred to there.

The CHAIRMAN. This is a different one?

Mr. ORVIS. This is one of the others.

The CHAIRMAN. Who were the parties in the suit to which you referred?

Mr. ORVIS. Quality Oil Transport and Quality Oil Co., Winston-Salem. That case was based on the rates put into effect on August 15.

The CHAIRMAN. Who were the parties in the case to which you are referring? Can you give me the names of the parties?

Mr. ORVIS. Bert Bennett and Joe Glenn.

The CHAIRMAN. Was that a suit in the State courts?

Mr. ORVIS. Yes; that was under the State antitrust act.

The CHAIRMAN. And what is your understanding of the disposition of that suit?

Mr. ORVIS. I never knew until last night what the disposition was, then I learned last night that somebody had ascertained from the attorney that it was only coming on for a rehearing next week, I think the man said.

Mr. FRANK. The bill was dismissed by the court below and the plaintiff is appealing?

Mr. ORVIS. Yes; but it is still pending. This letter that has just been discussed was the one from which I quoted in my written statement filed with the committee, and since there has been so much about the letter it seems best to read just that quoted portion (reading from "Exhibit No. 1274"):

> You will recall that during the course of the conference between yourselves and representatives of some of the North Carolina railroads in New York on December 20, 1935, an understanding was reached that if any legal obstacles in the way of carrying out the proposed schedule of rates were encountered, you gentlemen would render what assistance you could in the furtherance of the program. I therefore suggest that you attend or be represented at the hearing if you can possibly arrange to do so.

The anomaly to me of having the railroad systems call upon the attorneys, or the traffic men of the oil companies to come and help them is all that I wanted to bring out. I do not know whether they went or not, and didn't say that they did.

Mr. FRANK. You have suggested, Mr. Orvis, in your memorandum that some of these arrangements have been disadvantageous to the railroads in net effect, and that they have lost profits as a result. Why would the railroads take steps which would thus be to their disadvantage?

Mr. ORVIS. Because of what I spoke of the last time I was before you in connection with the dominance of the heavy suppliers of petroleum products. Is that understood?

Mr. FRANK. No. I wasn't here the last time, so perhaps I shouldn't ask you to go into it.

The CHAIRMAN. Do you know of any case filed in the Federal courts on the basis of any action that you believe to have been taken with respect to freight rates as the result of the Pelley memorandum?

Mr. ORVIS. I do not, sir.

The CHAIRMAN. So far as you know, the only suits that were brought were brought in State courts and had to do with intrastate rates?

Mr. ORVIS. Yes.

The CHAIRMAN. What is your information, or what do the letters which you have found and which have been authenticated, show with respect to the rates which were put into effect, as you say, in August following the Pelley memorandum?

Mr. ORVIS. Will you rephrase that about the rates? The rates went into effect—the first series of rates went into effect August 15.

The CHAIRMAN. Were they intrastate or interstate rates?

Mr. ORVIS. They are intrastate rates; yes. Most of those hauls would be within a State.

The CHAIRMAN. I am talking about the rates in that memorandum. Were they interstate or intrastate rates?

Mr. ORVIS. Pardon me, Mr. Chairman, there weren't any rates in the memorandum at all, except these levels, and so forth, that they spoke about.

The CHAIRMAN. Didn't you say a moment ago in response to an inquiry of mine that you had a memorandum there in which were set forth at length certain rates which became effective after August 15?

Mr. ORVIS. Those are mileage rates. If they were within the State they would be intrastate.

The CHAIRMAN. Of course I know if they were within the State they would be intrastate, but I haven't examined it. I am asking you who have examined it whether they are interstate or intrastate, that is all.

Mr. ORVIS. They would be both, and there was a proceeding before the Interstate Commerce Commission——

The CHAIRMAN. Mr. Cox, have you examined this?

Mr. COX. I have seen the schedule of rates—just so much a mile, no indication of which they are.

Mr. FRANK. They might be either inter or intra?

Mr. COX. That is right.

The CHAIRMAN. I don't know, but I must confess the material produced by Mr. Orvis is of course of very great interest and of course of very much importance. It deals with a very significant factor in the price of gasoline and other petroleum products. It deals with

the most important subject of the transportation of petroleum products to the ultimate consumer, and my own feeling is that the staff of this committee ought to make some effort to get at the facts. I don't know how the other members of the committee feel about that.

Representative WILLIAMS. Who put these rates into effect, if they are rates? I am like the Senator here, I haven't seen them. Is that what you call them, rates, freight rates?

Mr. ORVIS. Freight rates are filed with either the Interstate Commerce Commission or the State commission if they happen to be intrastate. If there are both in a mileage scale they would have gone to both Commissions.

Representative WILLIAMS. This schedule to which you have referred and as I understand you have called them rates——

Mr. ORVIS. Yes, sir.

Representative WILLIAMS. Were they put into effect?

Mr. ORVIS. They were; yes, sir.

Representative WILLIAMS. How?

Mr. ORVIS. By filing tariffs on them.

Representative WILLIAMS. Who filed them?

Mr. ORVIS. The railroads.

Representative WILLIAMS. What railroads?

Mr. ORVIS. These railroads in the Southeast.

Representative WILLIAMS. When? When did they do that?

Mr. ORVIS. The first series when it became effective August 15, 1935.

Representative WILLIAMS. Then it is your position that those rates were put into effect by these railroad companies in accordance with this plan they had made with the oil companies.

Mr. ORVIS. Yes, sir.

Mr. HENDERSON. Mr. Chairman, you inquired how other members of the committee feel. Speaking for myself, it seems to me that the witness has indicated a line of contemplated action by a series of authenticated letters, which very reasonably can be supposed not to be the complete file of letters which passed between representatives of the transportation companies and representatives of the oil companies. He has also given a considerable amount of evidence that, whether or not the action taken was exactly as contemplated in the Pelley memorandum, at least it was sufficient to achieve about the same result, a result evidenced by certain complaints of trucking companies and independent dealers in the area affected. The question then arises: what should this committee do about it? I don't believe that should be discussed in open meeting.

The CHAIRMAN. We have a letter here from Mr. Pelley, dated October 9, to Mr. Brackett, authenticating the A. F. Cleveland memorandum which Mr. Orvis presented the last day. I think it is only proper that that letter should also be part of the record. I am interested in the concluding paragraph of Mr. Pelley's letter. He says [reading from "Exhibit No. 1275"]:

I further desire to call to your attention that there was nothing strange or unusual about this procedure as the railroads individually and collectively are at all times giving consideration to requests for rate readjustments by the shippers individually and by groups, so that the correspondence which you request is nothing more than the usual and every-day occurrence and presents nothing more than the customary procedure in the handling of both class and commodity rates by the shippers and the railroad traffic officers.

(The letters referred to were marked "Exhibit No. 1275," and are included in the appendix on p. 9321.)

The CHAIRMAN. I am impressed, I might remark, by the fact that it would be only natural for the railroads and the shippers to engage in conferences and discussions with respect to what rates should be. It would only be natural that the railroads should be influenced by the amount of traffic that they were likely to get from large shippers of petroleum products or shippers of any other products by complying with the wishes of those shippers and it would be only natural also to think that perhaps in negotiations between railroads and big shippers, little shippers might be adversely affected. So all in all, it seems to me like a story of the utmost importance, and for my part, I would like to have our staff get the actual facts in this story.

STATEMENT OF W. S. FARISH, PRESIDENT, STANDARD OIL CO. (NEW JERSEY), NEW YORK CITY [1]

Mr. FARISH. Mr. Chairman, I have a request to make to the committee. In view of the fact that the record is now made to a large extent with letters, and suggestions of actions in connection with the Pelley memorandum I ask the committee that they permit our counsel, who is here and who is familiar with the matter, to state for the record how the whole question was handled by our organization.

The CHAIRMAN. If there is no objection, I think the committee will be very glad to entertain that request.

Mr. FARISH. Thank you.

Dr. LUBIN. Mr. Chairman, may I add in your request to the staff of the committee that they inquire further into the question as to whether it is customary for railroads contemplating freight rate cuts to try to make bargains with shippers, whereby the shipper, in order to get a lower rate must agree to give up certain methods of transportation of a competing nature.

Mr. ORVIS. Who was to answer that question?

Dr. LUBIN. Our staff.

The CHAIRMAN. Is it desired to make that statement now?

Mr. FARISH. I think it advisable, sir, that the record be made. Apparently we have reached a stage of fog in connection with it.

The CHAIRMAN. You had completed your statement with respect to this question of freight rates?

Mr. ORVIS. Yes; the Southeast section; yes, sir.

Mr. COX. You had finished everything about the Pelley memorandum?

Mr. ORVIS. Yes; except I just wanted to say here that the Quality Oil suit, I have just been informed that I misunderstood what was said. The first trial of it has not come up and it will come up in November 1939 according to this week's National Petroleum News. It has never been tried.

Mr. FRANK. Well, then you were in error. That is not, then, the case that is on appeal.

Mr. ORVIS. That is the case I said was on appeal, but it is not on appeal.

The CHAIRMAN. Very well. This is an article appearing in the

[1] Mr. Farish testified before the committee October 23, 24, and 25. His testimony appears in Hearings, Part 17

National Petroleum News for Wednesday, October 11, under the heading "Oil trucker's suit against railroads, charging conspiracy, nears trial" [reading]:

WASHINGTON, October 9.—A treble damage suit against four railroads operating in North Carolina, filed by Quality Oil Transport Co. (subsidiary of Quality Oil Co., large, independent jobber) at Winston-Salem, N. C., and charging a "conspiracy" in violation of State antitrust laws to eliminate truck competition, will come up for trial in November before the North Carolina superior court, according to Fred M. Parrish, Quality Oil's lawyer, reached by long-distance telephone.

State supreme court has already overruled the rails' demurrer. Mr. Parrish submitted in evidence an alleged copy of a letter addressed to the four railroads and signed with the name of a major oil company official, with notation indicating that copies were sent to officials of nine other major companies (see N. P. N., May 6, 1936, pp. 11–12).

The letter in the *Winston-Salem case* referred to a conference allegedly held November 28, 1934, in New York, between representatives of southern petroleum shippers and railroad officials in an endeavor to agree upon a scale of rates which it was felt would enable the southern lines to meet truck competition. It also suggested a scale of rail rates and concluded with the statement that it is to our mutual interest that definite action with regard to this matter and without delay.

On August 15, 1935, the rails put into effect a scale of oil freight rates but not as low as suggested in the letter. However, on May 5, 1936, the rails again cut their rates, lower than the scale allegedly suggested by the suggested scale. Since then there have been still further reductions.

Mr. Farish, who is your spokesman?

Mr. FARISH. Mr. Hall, counsel of our company.

TESTIMONY OF EDWIN S. HALL, SENIOR COUNSEL, STANDARD OIL CO. OF NEW JERSEY, NEW YORK, N. Y.

The CHAIRMAN. Very good. Mr. Hall, will you come forward? Do you solemnly swear the testimony you are about to give in this proceeding shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. HALL. I do.

The CHAIRMAN. Will you be good enough to give your name to the reporter?

Mr. HALL. My name is Edwin S. Hall. I am a member of the bar of the State of New York, have been such since the spring of 1909. I am a member of the bar of several other jurisdictions. I became counsel for the Standard Oil Co. of New Jersey, a New Jersey corporation, on September 20, 1920. I continued as such counsel until September 1, 1927, when I became counsel for the Standard Oil Co. of New Jersey, a Delaware corporation. I became senior counsel of that company in the fall—I think it was September—of 1934, and I continue as such counsel.

The CHAIRMAN. Are you familiar with the facts of the case which has been discussed here, or the circumstances which have been discussed here with respect to the Pelley memorandum?

QUESTION AS TO THE LEGALITY OF THE PROPOSED AGREEMENT

Mr. HALL. I am thoroughly familiar with the Pelley memorandum and have considerable familiarity with many of the other facts that have been discussed by the witness who has just withdrawn from the stand.

The so-called Pelley memorandum, being a letter on the letterhead of the Association of American Railroads, dated January 17, 1935, was addressed in our organization to Mr. R. G. Stewart, president.

The CHAIRMAN. It was received by Mr. Stewart, I take it?

Mr. HALL. It was addressed to and received by him; yes, sir. He was addressed as president of the Standard Oil Co. of New Jersey, at 26 Broadway. He was not such president at that time. He was not an officer of that company at that time or at any other time. He was general sales manager, but not an officer of the company.

A copy of the letter was also sent to Mr. A. G. Phelps, who was addressed as vice president and traffic manager. Mr. Phelps, in turn, was not then and never has been vice president of the company. He is merely its traffic manager.

I have not had an opportunity to compare the Pelley letter in the files of the Standard Oil Co. of New Jersey with the one just introduced by the preceding witness. I assume the one introduced is substantially correct. I will file for the record, if I may, the correct copy I have before me of the letter taken from the files of the Standard Oil Co. of New Jersey.

The CHAIRMAN. Of course, Mr. Pelley has authenticated the copy.

Mr. HALL. With one correction, one word, and if I may, I would like to introduce the letter from our files so there may be no doubt about it.

The CHAIRMAN. It may be so admitted.

(The letter referred to was marked "Exhibit No. 1276" and is included in the appendix on p. 9323.)

Mr. HALL. That letter was brought to my attention sometime between its receipt following its date of January 17 and January 31. I have before me a correct copy of my reply to Mr. Pelley, a reply written on behalf of the Standard Oil Co. of New Jersey. The reply reads as follows:

The CHAIRMAN. What was the date of it?

Mr. HALL. January 31, 1935. The letter is addressed to Mr. J. J. Pelley, president, Association of American Railroads, Transportation Building, Washington, D. C. [reading from "Exhibit No. 1277"]:

> Your letter of January 17 addressed to Mr. R. G. Stewart of this company has been brought to my attention. I am seriously disturbed over the possible application of the Federal and State Anti-Trust laws to the agreement you suggest. That agreement involves the curtailment of the use by the participating oil companies of means they have available for competing one with the other. It also involves their participation in an agreement by the railroads to revise existing leases for filling stations on railroad properties and to discourage future leases. I wonder if your counsel have given any consideration to this problem.

I likewise tender that for the record.

The CHAIRMAN. It may be received.

(The letter referred to was marked "Exhibit No. 1277" and is included in the appendix on p. 9324.)

Mr. HALL. That letter was dated January 31, 1935. In due course I received from Mr. Pelley his letter dated February 1, 1935, reading as follows, the letter being on the letterhead of the Association of American Railroads, Mr. J. J. Pelley, president. It is dated February 1, 1935 [reading from "Exhibit No. 1278"]:

> This will acknowledge receipt of your letter of January 31. The subject you refer to has been discussed with counsel. Our general solicitor, Mr. J. Carter

Fort, and Mr. A. F. Cleveland, vice president of the traffic department, expect to be in New York Thursday or Friday of next week to discuss with another company the same questions that you present. If agreeable to you, I shall be very glad to have them call on you also and discuss this subject at that time. Kindly advise if this will be satisfactory.

I tender that letter for the record.

(The letter referred to was marked "Exhibit No. 1278" and is included in the appendix on p. 9324.)

The CHAIRMAN. It may be received.

Mr. HALL. On February 4, 1935, I received a telegram from Mr. J. J. Pelley, addressed to me, reading:

Kindly advise if it would be agreeable to you to see Messrs. Fort and Cleveland Thursday afternoon February seventh at two thirty or Friday morning ten thirty, your office.

I have the original telegram in my files, Mr. Chairman. These copies have been prepared for convenience here.

The CHAIRMAN. You desire to offer this for the record?

Mr. HALL. Yes, sir.

The CHAIRMAN. It may be received.

(The telegram referred to was marked "Exhibit No. 1279" and is included in the appendix on p. 9325.)

Mr. HALL. On the same date, and before receipt of that telegram, I had written [reading from "Exhibit No. 1280"]:

I expect to be at my office Thursday and Friday of this week and shall be glad to receive Messrs. Fort and Cleveland if they call.

The CHAIRMAN. What was the date of that?

Mr. HALL. That letter is dated February 4, 1935.

The CHAIRMAN. What was the date of your original acknowledgement?

Mr. HALL. January 31, 1935. This correspondence was coming along in rapid succession.

May I beg your indulgence for a moment while I refer to my original file, if you please?

The committee will recall that in the letter of February 1, 1935, from Mr. Pelley to me, in which he first proposed a meeting with Messers. Fort and Cleveland, he said that Messrs. Fort and Cleveland were coming to New York to discuss with another company the same question as I presented. Then, on February 4, 1935, I wrote to Mr. Pelley as follows [reading from "Exhibit No. 1280"]:

I expect to be at my office Thursday and Friday of this week and shall be glad to receive Messrs. Fort and Cleveland if they call.

If another petroleum company has raised the questions I mentioned in my letter and Messrs. Fort and Cleveland expect to discuss the problem with its representatives, the matter might be handled at a joint conference. I think I know counsel for all the companies mentioned in your letter and I feel quite sure any one of them would be glad to accept the proposal of a joint conference. If you will tell me the identity of the other company I will be glad to mention to its counsel the possibility of a joint conference.

Then, before I had signed and mailed the letter, Mr. Pelley's telegram of that date came in, so I added a postscript reading:

Since dictating the above your telegram has been received. I will be glad to see Messrs. Fort and Cleveland Thursday afternoon at 2:30

I offer that letter.

The CHAIRMAN. It may be received.

(The letter referred to was marked "Exhibit No. 1280" and is included in the appendix on p. 9325.)

Mr. HALL. On February 5, 1935, I received the following telegram from Mr. A. F. Cleveland, vice president of the Association of American Railroads [reading from "Exhibit No. 1281"]:

> Your letter fourth to Mr. Pelley. We were asked to meet with Mr. H. T. Klein, Vice President and General Counsel the Texas Company and have made definite appoiutment his office ten-thirty Thursday morning, February seventh. Mr. Fort and the undersigned will be glad to follow your suggestion for joint conference providing you can so arrange and will wire time and place of same.

I tender that telegram for the record.

The CHAIRMAN. It may be received.

(The telegram referred to was marked "Exhibit No. 1281" and is included in the appendix on p. 9325.)

Mr. HALL. On receipt of that telegram I telephoned Col. H. T. Klein and told him of the receipt of the telegram. I told him of the previous correspondence I had had with Messrs. Pelley and Cleveland, which has been introduced in the record, and asked if a joint conference to cover the subject would be satisfactory to him. He said it would be, and thereupon, on February 6, 1935, I telegraphed Mr. A. F. Cleveland, of the Association of American Railroads, as follows [reading from "Exhibit No. 1282"]:

> Will meet you Thursday morning Ten-thirty Colonel Klein's Office.

The CHAIRMAN. It may be received.

(The telegram referred to was marked "Exhibit No. 1282" and is included in the appendix on p. 9325.)

Mr. HALL. The conference was had. During the conference I insisted, and Colonel Klein shared my view, that the agreement proposed was possibly violative of State and Federal antitrust laws. The chairman and the committee doubtless will remember that at that time the National Industrial Recovery Act was still in effect. The suggestion was made during the conference that if the proposal of Mr. Pelley was to be seriously urged, we would have to advise our clients that we could not go forward with it unless the agreement had the approval of the President of the United States, which in our opinion would give it certain immunities from antitrust law prosecution pursuant to section 4 (a), I think it is, of the National Industrial Recovery Act.

About that time in our organization we had a change in general sales managers. Mr. R. G. Stewart, to whom the Pelley letter was addressed, resigned, and he was succeeded by a new man, at that time quite unfamiliar with the things that had gone on in our sales department, even recently, Mr. R. T. Haslam. So after the conference with Messrs. Fort and Cleveland at Colonel Klein's office I felt it my duty to advise Mr. Haslam, who had succeeded to the general sales managership of the Standard Oil Co. of New Jersey, of the whole situation up to that time, and I would like to read to the committee and offer for the record my letter of February 18, 1935, to Mr. R. T. Haslam, who at that time had become our general sales manager. The letter was personally delivered. It was not sent through the mail. The letter is as follows [reading from "Exhibit No. 1283"]:

> Mr. Stewart had some conversations with representatives of the Association of American Railroads with respect to the discontinuance of trucking gasoline

from terminals or refineries in the southeast for a distance in excess of forty or fifty miles. After the conversations, Mr. Stewart received a letter from Mr. Pelley, President of the Association, of which the enclosed is a copy. He then referred the matter to me. I told Mr. Stewart I was disturbed over the possible application of Federal and State Anti-Trust laws to the suggested agreement. He asked me to communicate my fear to the representatives of the Association and discuss the matter with them. During that discussion, which was held in the office of Colonel H. T. Klein, General Counsel of The Texas Company, on February 7, Colonel Klein suggested to Messrs. Cleveland and Fort, representing the Association, that he would advise The Texas Company against entering into the proposed agreement unless the agreement had the approval of the President of the United States and was thus afforded the immunity from Anti-Trust Law prosecution accorded by the National Recovery Act to agreements so approved. The meeting with the Asssociation's representatives concluded with the understanding that the oil company representatives present would discuss with their executives the advisability of seeking Presidential approval of the contemplated agreement.

I think the contemplated agreement should not be made unless we are assured through Presidential approval of immunity from prosecution for Anti-Trust Law violations. I shall be glad to try to develop the possibility of securing Presidential approval of the contemplated agreement if you wish it, although I think I should note at this time that I doubt the possibility of obtaining such approval.

Mr. Phelps has views with respect to the advisability, from a practical standpoint, of our entering into the proposed agreement and he will discuss this phase of the problem with you.

The Railroads are engaged in a vigorous attempt to restrict truck and bus operation to force the transportation of freight and persons back onto the rails. The petroleum industry feeling the Railroads' success in this endeavor would materially reduce the consumption of petroleum products, has been engaged in an equally serious attempt to prevent the enactment of the legislation desired by the Railroads. It would seem to me entirely inconsistent for the petroleum industry to spend time and effort in opposing the Railroads sponsored legislation of this type while at the same time it makes an agreement to restrict its own operation of motor vehicles.

The CHAIRMAN. You use the phrase "Railroads' sponsored legislation."

Mr. HALL. Yes, sir.

At that time, Mr. Chairman, and even now, the railroads are engaged, if I understand the situation correctly, in using every legitimate means to restrict truck and bus operation so that the movement of passengers and freight will continue on and revert to the rails. I can spend the rest of the afternoon citing instances where that attempt has been carried on, sometimes successfully and sometimes not successfully. The petroleum industry has been engaged, I hope in an equally vigorous attempt, to let the new methods of transportation come into their full force and effect.

Following the letter to Mr. Haslam——

The CHAIRMAN (interposing). You meant by that phrase that this particular program had been sponsored by the railroads.

Mr. HALL. The meaning of the phrase contained in the last paragraph of my letter just read, and to which the chairman refers, is that it refers to a wholly different matter. It refers to a broad general program of the railroads, not only to restrict petroleum transportation over the roads, but to restrict all sorts of transportation over the roads, all sorts of freight, bus operation, and everything of that sort.

Anyone that has followed the situation in the last 10 years will surely be aware of the railroads' attempt in that respect.

The CHAIRMAN. What was your understanding as to the initiative in this particular matter referred to in the Pelley memorandum?

Mr. HALL. My understanding of the initiative in that is that it was a proposal by the railroads, in the hope that they could persuade the petroleum industry to assist them in stemming this change in the mode of transportation from rails to motors, which had been going on so effectively for the last 10 or 12 years.

After the letter to Mr. Haslam dated February 18 was written I received word that representatives of the Association of American Railroads had been in conference with members of the Petroleum Administrative Board.

(The letter referred to was marked "Exhibit No. 1283" and is included in the appendix on p. 9326.)

Mr. HALL. The Petroleum Administrative Board was an advisory board created by Mr. Ickes, Administrator of the Petroleum Code, to assist him in petroleum matters. It is my understanding that the proposal of the American railways was looked upon with some favor by some members of the Petroleum Administrative Board, but they felt they could not go forward, I am informed, toward the securing of Presidential approval, unless public hearings were held.

I was so convinced at the time that Presidential approval could not be obtained that I was unwilling to go forward with public hearings, and I replied that I had no desire to participate in public hearings seeking the Presidential approval.

The matter was completely closed, so far as the Standard Oil Co. of New Jersey was concerned, by a letter dated March 26, 1935, which I wrote for the signature of Mr. R. T. Haslam, our general sales manager, and Mr. Haslam signed and mailed the letter. The letter was addressed to Mr. J. J. Pelley, president of the Association of American Railroads, Transportation Building, Washington, D. C.

DEAR MR. PELLEY: Your letter of January 17th, addressed to Mr. R. G. Stewart, has been brought to my attention. After very careful consideration we have reached the conclusion we cannot participate in the plan you suggest.

Very truly yours,

R. T. HASLAM.

That was the absolute end of the Pelley memorandum and the thing that is suggested insofar as the Standard Oil Co. of New Jersey was concerned.

I think, if the chairman will permit, I would like to make an observation or two with respect to the relationship between the subjects of the Pelley memorandum and the conference between representatives of the southern rail carriers and certain representatives of the traffic departments of several petroleum companies to which this previous witness has referred. In making that observation I want to arouse the chairman's memory of conditions existing——

The CHAIRMAN (interposing). Before you undertake that, Mr. Hall, may I ask you at least one question?

Mr. HALL. Yes, sir.

The CHAIRMAN. In your letter of January 31, 1935,[1] which was the first acknowledgment of the Pelley memorandum, after outlining your doubts as to the legality of the proposal you concluded your letter with the sentence, "I wonder if your counsel have given any consideration to this problem," and in the response which you received from Mr. Pelley under date of February 1, 1935,[2] the second

[1] "Exhibit No. 1277," appendix, p. 9324.
[2] "Exhibit No. 1278," appendix, p. 9324.

sentence reads, "The subject you refer to has been discussed with counsel." Then he says, "Our general solicitor, Mr. Carter Fort, and Mr. A. F. Cleveland, vice president of the traffic department, expect to be in New York on Thursday," and so forth, leading up to the conference which was then held.

Mr. Hall. Yes, sir.

The Chairman. That conference was held in the office of the attorney for the Texas company,[1] as I understand it.

Mr. Hall. Yes, sir.

The Chairman. So I assume that the subject of that conference involved the legality of the suggestion.

Mr. Hall. Precisely.

The Chairman. At the conference did the representatives of the railroads express their opinion?

Mr. Hall. I haven't any definite recollection on that subject, Mr. Chairman. The opinion of counsel for the railroads would not have been particularly persuasive on me. I have my own views of the application of the antitrust laws to it.

The Chairman. But evidently since the conference was arranged as the result of an exchange of correspondence initiated by your expression of doubt, and your question as to whether or not this subject had been discussed by the counsel for the railroads, a letter which brought the response from Mr. Pelley, the author of the memorandum, that this subject matter which you brought up had been referred to by counsel and had been considered by counsel—am I to understand that the conference was then held and that you now entertain no definite recollection of what your respective views were in the conference with respect to this particular question?

Mr. Hall. I haven't any clearcut recollection of the words used in the conference.

The Chairman. Well, of course I wouldn't expect you to remember the exact words, but I would expect you to have a general idea.

Mr. Hall. I was coming to that, sir. It is my very definite recollection that I was so strongly opposed to my company entering into the agreement proposed by Mr. Pelley that I didn't even stop to consider whatever views Mr. Fort may have reached before the conference. Those were my conclusions and I was prepared to stand on them. The only thought in my mind during the conference was conveying those views emphatically to Mr. Cleveland and to Mr. Fort and then we went to discussing the possibility of getting around my objection by Presidential approval, which would suspend the operation of the antitrust laws with respect to the agreement.

Mr. Frank. Mr. Hall, under date of October 9, 1939, Mr. Pelley addressed Mr. Brackett, the executive secretary of this committee, and referred to the requested copy of letter written by Mr. Cleveland under date of April 26, and enclosed a copy and then went on with this statement.[2] "I trust you will permit me to explain that Mr. Cleveland had a conference in New York under date of April 16, 1935," that being 10 days prior to the date of this so-called Pelley memorandum.

Mr. Hall. Pardon me, Commissioner Frank, April 16, 1935?

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[1] Harry T. Klein, whose testimony appears infra, p. 9118, et seq.
[2] "Exhibit No. 1275," appendix, p. 9321.

Mr. FRANK. '35.

Mr. HALL. That is 4 months after the Pelley memorandum. The Pelley memorandum is January 17, 1935.

Mr. FRANK. I'm sorry. This is on another subject. You are quite correct. But I just want to read you what he said. [Reading from "Exhibit No. 1275":]

I trust that you will permit me to explain that Mr. Cleveland had a conference in New York under date of April 16, 1935, at which he received a request as to certain rate adjustments which the oil companies stated would be necessary to place the railroads' freight adjustments on gasoline and refined oil, illuminating or burning, on a competitive basis in the Southeast with rates being charged by competing trucking companies. This suggestion was promptly submitted to the Southern lines and Mr. Cleveland's letter of April 26 is in answer to the request for readjustment of rates which he received. It does not provide the basis of rates which the oil companies requested but was the conclusion of the Southern lines as to what the proper rates should be.

In that instance, then, it would appear that the suggestion for reduction of rates had initiated with the oil companies rather than with the railroad company.

Mr. HALL. I was about to discuss that phase of the transaction, Commissioner Frank, when the chairman interrupted me to ask further questions concerning the Pelley correspondence.

Mr. FRANK. Before you discuss it, let me call your attention to the concluding paragraph of the letter [reading further from "Exhibit No. 1275"]:

I further desire to call to your attention that there is nothing strange or unusual about this procedure, as the railroads individually and collectively are at all times giving consideration to requests for rate readjustments by the shippers individually and by groups, so that the correspondence which you request is nothing more than the usual and everyday occurrence and presents nothing more than the customary procedure in the handling of both class and commodity rates by the shippers and the railroad traffic officers.

Mr. Pelley thereby indicates that such conferences at least as that which was held on April 16, 1935, are not in any manner strange, but are usual.

Mr. HALL. I share Mr. Pelley's view in that respect, Commissioner Frank. The letter of January 17, however, brought in some entirely strange subject to that type of conference. It brought in the question the previous witness has described as agreements to discontinue trucking, agreements to discontinue delivery into buyers' trucks, readjustment of interterritorial rates by agreement, and agreement to reform certain leases. It was the first, second, and fourth of those four problems that disturbed me under the antitrust laws.

Mr. FRANK. I see. May I ask you out of ignorance a question that does relate to the Pelley memorandum. Apparently there was to be something done about reformation of leases.

Mr. HALL. Yes, sir.

Mr. FRANK. The previous witness has indicated in the memorandum which he prepared that the railroad companies make leases of property which they own and along their right-of-way either free or for no rent or for a very nominal rent. Would you care to discuss whether that is a practice and whether, if it is, it is in your opinion legal?

Mr. HALL. The railroads' practice of leasing property for filling-station purposes and for bulk-plant purposes?

Mr. Frank. Yes.

Mr. Hall. It is a practice, Commissioner Frank. The rental is a matter on which I can't speak with any definiteness. I understand—it is my impression, that the rentals are based on the railroad's investment providing the railroad a return on their investment in the land. There is nothing unusual about those leases; they are prevalent, so far as I know, throughout the whole eastern part of the United States and I know nothing unlawful about them.

The Chairman. Does your acquaintance with these leases go far enough to enable you to say whether or not special rates or more favorable rates of rental of sites upon the railroad right-of-way are allowed to lessees upon the basis of the amount of products which they ship?

Mr. Hall. I think there is no relation between the rent paid and the amount of the products shipped, Mr. Chairman. I have seen a good many of those leases.

The Chairman. Do you think that an independent operator of a bulk plant could obtain a lease at as reasonable a rate upon the railroad right-of-way as the Standard of New Jersey, for exmple?

Mr. Hall. Yes, sir.

The Chairman. You are aware, of course, that in the proposal outlined by Mr. Pelley it was suggested that more favorable rates should be granted to the petroleum companies than to others?

Mr. Hall. No; quite the contrary.

The Chairman. You didn't understand that so?

Mr. Hall. If I understand Mr. Pelley's letter correctly it indicates that more favorable rates had been granted to independent operators, private filling-station operators, than to the large oil companies, and that Mr. Pelley's proposal was that the practice be discontinued and the previous leases so far as they had been granted be reformed under circumstances permitting.

The Chairman. You misunderstand me. I was referring to the future; that he was proposing a program by which the large shipper, these oil companies who would abandon their trucking, would receive the favorable consideration.

Mr. Hall. No; proposing a program of equality, Mr. Chairman.

The Chairman. You understood this to mean equality?

Mr. Hall. Yes, sir.

Mr. Frank. Is it your understanding that not alone will the rentals be just as favorable to the small company as to the large, but that the small company can as easily obtain a lease at whatever the rate is as the large company?

Mr. Hall. Yes, sir.

Dr. Lubin. Mr. Hall, before we leave this phase of the question, do you know what happened to the trucking operations of your company? First, did the Standard Oil of New Jersey have any of its own trucking operations in North Caroline at this time?

Mr. Hall. Yes, sir.

Dr. Lubin. After you had written to the railroads' president, Mr. Pelley, or at least having dictated a letter for signature by your sales manager, was there any change in the policy of the Standard Oil of New Jersey in transporting oil products in North Carolina?

Mr. HALL. We had been operating on the policy of favoring existing carriers wherever we could, wherever there was an equality or an approach of equality of rates. After the time of the Pelley request there were railroad reductions in a railroad endeavor to get themselves competitive with the motortrucks. The railroads haven't yet caught up with the motortrucks. The motortrucks in many instances are maintaining transportation rates lower than the railroads today. We have gone on—I haven't the detail of the situation but I am sure we have gone on and expanded our own fleet of trucks engaged in hauling up to several hundred miles; we have employed contract haulers and have permitted our customers to come to our plants and do long-distance hauling of merchandise they purchase from us.

Dr. LUBIN. Was that equally true in 1935 as it is today?

Mr. HALL. It has been a gradually developing program. I recall one instance where there was an extensive expansion of our own trucking facilities engaged in this particular type of operation. I can't exactly fix the detail. I merely know that the expansion of the program, the purchase of a considerable number of pieces of truck equipment, took place.

Dr. LUBIN. You don't know what happened, however, in 1935 as to whether there was curtailment or increase in that particular year?

Mr. HALL. Not in that particular year. I think that is about the time that we started materially expanding our own motor transportation facilities.

The CHAIRMAN. Let me refer to Mr. Pelley's memorandum, the last sentence of the second paragraph.

Mr. HALL. Yes, sir.

The CHAIRMAN. The last sentence of the second paragraph [reading from "Exhibit No. 1269"]:

> Railroads in Southeastern Territory will reform as rapidly as seems advisable existing leases covering railroad property used for filling-station purposes; they will discourage future leases on terms more favorable to lessees than under the reformation plan.

The interpretation of that sentence would appear to depend upon an understanding of what the reformation plan was. Do you know what it is?

Mr. HALL. I do not with certainty, Mr. Chairman. This is a matter that originated in Mr. Pelley's mind or in the minds of some of his associates in the Association of American Railroads. So far as I know previous suggestions had not been made to them, certainly from my company, and I have to look to the structure of the sentence as you do to get the meaning of it. I have no knowledge of my own.

The CHAIRMAN. Well, then, how did you come to the conclusion expressed a moment ago in response to my question?

Mr. HALL. Largely because I was aware there were leases lower than we had enjoyed and we were disturbed by those low leases as they created an unfair competitive advantage.

The CHAIRMAN. But so far as the language itself goes, and so far as your personal understanding goes, your interpretation of that sentence is as vague as my own?

Mr. Hall. Precisely, from the language itself.

The Chairman. You may proceed with the statement that you were initiating at the time we interrupted you.

Mr. Hall. The previous witness has impressed me as endeavoring to tie together a conference held in New York between representatives of the southeastern rail carriers, representatives of the oil companies shipping merchandise via those carriers, the Pelley memorandum of January 17, 1935, and certain rate reductions which took place in the summer of 1935, August, I believe it was.

I believe there is no such connection. I mentioned when I was interrupted that to thoroughly understand the situation one had to recall the condition existing in 1933 and 1934. Those were years of depression, years of relatively limited business activity; many types of business were seeking any way they could to augment their income, and the motortruck operators not having the usual amount of merchandise to carry were seeking, along with other businesses, further income; they were seeking petroleum business.

The Chairman. What was the date of your letter in which you expressed the decision of your company to have nothing to do with the plan?

Mr. Hall. March 26, 1935.

The Chairman. What was the date on which the rates were reduced?

Mr. Hall. I think the date was August 15, 1935.

The Chairman. Were you still in touch with the situation during that time?

Mr. Hall. No, sir. My touch with it has been reconstructed by examining the files that were built up in the organization at the time.

The Chairman. Your organization had no further correspondence about this, did it?

Mr. Hall. About the Pelley letter?

The Chairman. Yes.

Mr. Hall. That is correct, sir.

The Chairman. Did it have any further interests in the program?

Mr. Hall. Not in the program proposed by Mr. Pelley.

The Chairman. Did it follow the question of the reduction of the rates?

Mr. Hall. Yes, but that is not the program proposed by Mr. Pelley. Mr. Pelley's program with respect to rates was an elevation of the rates, an elevation of the interterritorial rates, which are the rates from the Mississippi River Valley to eastern points. You will find that, I think, in the second paragraph of Mr. Pelley's memorandum.

The Chairman. That, you say, was an increase of rates that was proposed?

Mr. Hall. I so understand it, sir.

The Chairman. Then why were the railroads proposing to increase the freight rates on petroleum products to the petroleum companies with any expectation that the petroleum companies would accept them?

Mr. Hall. I think the answer to the question would involve an interpretation of Mr. Pelley's mind. I have some doubt of my ability to do that, but I suspect from the context of the letter that the proposal was to increase the interterritorial rates which Mr. Pelley hoped would prove attractive to the oil industry and would certainly be

attractive to the railroads at the same time, as was stated here. I suspect what was in Mr. Pelley's mind was the idea that the shippers would not be so keen to move merchandise from the rails to the motors for carriage and that Mr. Pelley could escape by that route—the southeastern railroads could escape by that route.

The CHAIRMAN. How could the railroads eliminate truck competition by raising their rates?

Mr. HALL. Mr. Pelley in his letter is proposing that the shippers in exchange for the advantages tendered them, take an arbitrary stand in refusing to let their merchandise be shipped via the motortrucks.

Mr. FRANK. What were those advantages?

Mr. HALL. Mr. Pelley's letter lists four things which have been described by the preceding witness. I beg your pardon, the witness didn't describe the advantages. The advantages are the reformation of leases, which apparently was Mr. Pelley's idea to make the cost of leases higher, more commensurate with the ownership of sites for those stations. Mr. Pelley's letter seems to me to propose higher interterritorial rates which to oil companies confronted with competition from producers and refiners in the Southwest, Mr. Pelley apparently suspected would be an attractive thing.

Mr. O'CONNELL. Would it?

Mr. HALL. I am not prepared to discuss all the companies' situations. I am unable to see how it would be particularly attractive to my company.

Mr. O'CONNELL. How about the reformation of leases?

Mr. HALL. Reforming of leases is a matter of rental, as I understand the Pelley letter.

Mr. O'CONNELL. Would the reforming of leases be of some advantage to your company?

Mr. HALL. Of some slight advantage, perhaps, in that it would put the cost of unoccupied railroad property for bulk plant or filling station purposes more nearly in line with the cost to one who owned the property for those purposes. We have very few, if any, properties on railroad leases. We own most of our facilities.

Mr FRANK. That goes to indicate, then, that the leases made by railroads at least as of the date of the Pelley memorandum were at a rental below that and below the cost to one who owned property.

Mr. HALL. I would imagine that was true. I haven't any exact information, Commissioner Frank.

Mr. O'CONNELL. One more question on this interterritorial rate. Does your company ship much oil on the basis on which they pay interterritorial rates?

Mr. HALL. Relatively little.

Mr. O'CONNELL. Most of your petroleum products travel how?

Mr. HALL. Most of our petroleum products sold in the southeastern territory under discussion manufactured on seaboard points are shipped by tanker from refineries in the Gulf around to seaboard terminerals at points like Charleston, S. C., Wilmington, N. C.

Mr. O'CONNELL. Would it not be fair to conclude from that that as between your company and companies not in a position to take advantage of the favorable transportation by tanker, that an increase in interterritorial freight rates would be of advantage to your company?

Mr. HALL. It is my recollection of the conditions at that time that there was very little petroleum merchandise coming on the rails from west of the Mississippi points of origin to the eastern seaboard where we were operating. That leads me to believe that we would not be particularly interested in the adjustment of inter-territorial rates.

Mr. O'CONNELL. I see, but to the extent that oil was being shipped on that basis, I take it an increase in rates would make it that much more difficult.

Mr. HALL. To a very limited extent, but I insist the extent is so small as to be negligible.

Mr. O'CONNELL. You don't know how much oil was being shipped in that way?

Mr. HALL. Not in quantity; no, sir.

The CHAIRMAN. Mr. Hall, I think it is important that we get a clear understanding of this memorandum and a clear understanding of your interpretation of the memorandum, so at the risk of laboring the point a little bit I am going to read Mr. Pelley's memorandum and ask for your interpretation of it.

It begins [reading from "Exhibit No. 1269"]:

> Based upon discussion with Mr. Cleveland, it is my understanding that in view of certain conditions to be later referred to herein you have stated. * * *

Now this is a—

> Memorandum of discussion regarding transportation of petroleum products in the Southeast.

It was addressed to your company. Whom he means by "you," I don't understand. Whom do you think he means by "you"?

Mr. HALL. I don't know, sir.

The CHAIRMAN (reading further from "Exhibit No. 1269"):

> * * * you have stated that in the southeast you will discontinue trucking from your water terminals.

How about the second "you"?

Mr. HALL. I still am in doubt concerning the meaning of it.

The CHAIRMAN. One would normally assume that this "you" referred collectively to the petroleum companies, would one not?

Mr. HALL. That is a possible interpretation. I am certain, however, it didn't, because I am certain there were no meetings of the petroleum companies where this subject was discussed.

The CHAIRMAN. What other interpretation can one put upon it since it was a memorandum addressed to petroleum companies?

Mr. HALL. I am at a loss, sir.

The CHAIRMAN. You said it was a possible interpretation. Since you limited it that way I wondered what other interpretation you could put upon it.

Mr. HALL. I am at a loss for any other interpretation.

The CHAIRMAN. Then you and I agree there.

(Reading further from "Exhibit No. 1269"):

> * * * you will discontinue trucking from your water terminals or refineries * * *

referring to the water terminals or refineries of the petroleum companies.

Mr. HALL. That would be a reasonable inference from the context of the letter.

The CHAIRMAN (reading from the same exhibit):

* * * you will discontinue trucking from your water terminals or refineries to the interior for distances in excess of 40 to 50 miles (which is the approximate limit of the customary filling station distribution), whether service by truck for greater distances is being performed by outside agencies or by trucks of your company, and that you will simultaneously discontinue delivering these products to dealers' or buyers' trucks at your water terminals or refineries.

Now, what does that proposal mean to you?

Mr. HALL. That proposal means that Mr. Pelley was proposing that we would not ship by our own strucks, by the trucks of contract carriers, or permit dealers having places of business more than 40 or 50 miles away from our water terminals to come to our terminals for their merchandise. In other words, we would not engage in ourselves, contract for, or permit our customers to engage in the hauling of petroleum merchandise for distances—hauling of petroleum merchandise by motortruck—for distances in excess of 40 or 50 miles back inland from the water terminals.

The CHAIRMAN. "* * * for distances in excess of 40 to 50 miles."

Mr. HALL. Yes, sir.

The CHAIRMAN. Now, have you stated that correctly? Does he not propose that you will discontinue delivery?

Mr. HALL. Well, I should have put in the conjunction that we will not engage and will discontinue any such practices that we had in vogue at the moment.

Mr. HENDERSON. Mr. Chairman, the language seems clear to me, as it does to you, that it was not Mr. Pelley's proposal.

The CHAIRMAN. Mr. Henderson, let us get Mr. Hall's interpretation of the proposal and then we can determine who was the author of it. What is the meaning of the phrase "whether service by truck for greater distances is being performed by outside agencies or by trucks of your company"?

Mr. HALL. That is the part of the proposal which prompted me to say a moment ago that Mr. Pelley was including the idea that we would not engage in new operations for hauling in excess of 50 miles or continue any existing arrangements for hauling in excess of 50 miles.

The CHAIRMAN. Now, this left you free to use trucks for all purposes by contract or your own trucks for the delivery of petroleum products up to 50 miles from refinery or terminal?

Mr. HALL. I would so interpret the letter, yes, sir.

The CHAIRMAN. That is what the oil companies were to do, they were to abandon the use of trucks under the terms that you have just now described.

Mr. HALL. I think that is the proposal Mr. Pelley made.

The CHAIRMAN. Then the second paragraph [continuing to read from "Exhibit No. 1269"]:

Railroads in Southeastern territory, in order to make this arrangement an effective one and to stabilize the distribution of these products, will use their best efforts to bring about a readjustment of interterritorial rates on these products into Southeastern Territory on the same rate level as fixed by the Interstate Commerce Commission within that territory, it being recognized that in order to make this change in freight rates it will be necessary to obtain relief from oustanding orders of the Interstate Commerce Commission.

What is your understanding of that proposal? That, I take it, is the consideration to be offered by the railroads for the performance

requested or suggested by the petroleum companies in the first paragraph.

Mr. HALL. My understanding is that at the time the letter was written, in the early part of 1935, the rates in the Southeastern territory were higher on a relative basis than the intraterritorial rates governing movements from points of origin west of the Mississippi into the Southeastern territory; that the Pelley proposal was that the intraterritorial rates would be increased to the same relative level as the rates within the Southeastern territory then prevailing.

The CHAIRMAN. And did he consider that to be a concession granted by the railroads to the companies?

Mr. HALL. Apparently he did.

The CHAIRMAN. Did you regard that as a concession?

Mr. HALL. I explained a few minutes ago that I considered it of very little importance to my company.

The CHAIRMAN. Would it be of any importance to your company?

Mr. HALL. I am not aware, Mr. Chairman, that it would be.

The CHAIRMAN. Would it be of importance to any company?

Mr. HALL. I am not familiar with the operations of all the companies in this southeastern territory.

The CHAIRMAN. Was it discussed at the conference?

Mr. HALL. No, sir.

The CHAIRMAN. This was not—the interpretation of the memorandum was not a subject of the conference?

Mr. HALL. No, sir.

The CHAIRMAN. I take it the only subject of the conference was the legality or illegality.

Mr. HALL. Yes, sir.

The CHAIRMAN. Then did you assume that if it was a legal thing to do it would be a desirable thing to do?

Mr. HALL. I didn't carry my consideration of it to that point, Mr. Chairman. I had a hurdle before I could get to that point and I never succeeded in topping the hurdle.

The CHAIRMAN. Why hold a conference if it was not a desirable thing to do and the only obstacle was the illegality?

Mr. HALL. To try to be courteous to the president of a great organization.

Mr. HENDERSON. Mr. Hall, there is a little difference here as to the proposals. Is it possible that Mr. Stewart may have gone this far in representing your company as being willing to make these discontinuations?

Mr. HALL. Unfortunately Mr. Stewart is no longer with us; I have had no opportunity to search his recollection on the subject. I think the whole correspondence indicates Mr. Stewart had not committed the company in any respect because certainly I stepped in and expressed my view and encountered no difficulty in impressing my view with respect to the legality.

Mr. HENDERSON. Mr. Stewart terminated his connection with the company very shortly thereafter, did he not?

Mr. HALL. Yes, sir.

Mr. HENDERSON. Did this have anything to do with his termination?

Mr. HALL. I doubt it very much indeed. I wasn't present when his services were terminated and I can't speak with any knowledge of the cause of the termination.

Mr. HENDERSON. You indicate that you stepped in there. Did you have any discussion with Mr. Stewart as to what his commitments were in these preliminary negotiations?

Mr. HALL. No, sir; I did not.

Mr. HENDERSON. None at all?

Mr. HALL. No, sir; the traffic manager brought the letter to my attention and I prepared the letter to Mr. Pelley thereupon.

Mr. HENDERSON. Without any consultation with Mr. Stewart who had been representing your company? You made no inquiry as to how seriously Mr. Stewart may have committed the Standard Oil of New Jersey, although a connotation can certainly be placed here that Mr. Stewart did make the proposal which you questioned as being violative of the antitrust acts?

Mr. HALL. No, sir; I did not.

Mr. HENDERSON. Is there any explanation you would offer concerning that omission?

Mr. HALL. The traffic manager described it as, and it appeared to me as, a proposal from Mr. Pelley. I had no hesitancy in expressing and acting on my own conception of the application of the antitrust laws to it.

Mr. HENDERSON. Being a lay lawyer, I think I would agree with you on your interpretation, but I was not asking what your interpretation was. I was trying to get at this question whether you were sure in your own mind that the representatives of your company who were in this before it came to your attention through the traffic manager had gone this far.

Mr. HALL. I didn't make any inquiries on that subject, Mr. Henderson.

Mr. HENDERSON. One other question. You indicated that as far as you could see there was no connection between the Pelley letter and its proposals, from whatever source derived and what subsequently took place, for example, in the Carolina reductions. Did I gather that correctly?

Mr. HALL. That is correct.

Mr. HENDERSON. Did you have any participations with representatives of your company who met through Mr. Cleveland with the representatives of the southern railroads?

Mr. HALL. No, sir.

Mr. HENDERSON. And you believe that that was entirely independent of any connection with the other proposal?

Mr. HALL. I do, sir.

Mr. HENDERSON. May I call your attention to a part of the letter dated April 26, 1935, addressed by Mr. Cleveland to the various petroleum company representatives, of which Mr. A. K. Phelps of your company seemed to have been a recipient. He said [reading from "Exhibit No. 1275"]:

I regret deeply that the more constructive original program became impossible, but I am happy in the thought that the impossibility resulted from no failure of a proper cooperation on either side, but was solely due to forces over which neither side had any control.

Might I suggest to you that the forces over which you had no control may have been the impossibility of securing the approval of the President of the United States, via the code, and so forth, that that might have been the impossibility he was referring to there? It was very clear in Mr. Cleveland's mind that there was something more than just this question concerning what the oil companies would suggest as to mileage rates in competition with the trucking companies, and the language there is subject to the interpretation I have placed on it.

Mr. HALL. Mr. Henderson, I have been waiting an opportunity, after the chairman finished his questions, to explain in a connected way the conference of November and the matter referred to in that letter. I construe that as merely a polite expression in Mr. Cleveland's mind of his regret that the matter proposed by Mr. Pelley in his letter of January 17, couldn't be carried through.

Mr. HENDERSON. That was what I was asking, whether or not this was in their minds and did relate to the program.

Mr. HALL. I think that is an entirely possible construction of Mr. Cleveland's letter.

Mr. HENDERSON. If that is a possible construction of some of these acts which seemingly to you have no connection, might they not still have been resident in people's minds and have been subject to the general quid pro quo arrangements which were under discussion at that time?

Mr. HALL. I do not so understand it.

Mr. HENDERSON. Despite the effect that the Carolina freight reduction may have had?

Mr. HALL. The expression in the letter which you have just read does not change my opinion in that respect at all.

Mr. FRANK. May I ask this? In the prepared statement of the previous witness, after he discusses the Pelley memorandum and quotes it, he says—I am quoting:[1]

> The letter dealt with a situation that had been having attention since the preceding November, when the self-styled representatives of the oil industry, exclusively majors, had submitted to the railroads a proposal for establishing a scale of rates to apply to shipments to a distance of 250 miles from the seaboard terminals, the scale being based on the lowest cost per mile obtainable for handling bulk petroleum products, whether by company-owned motor trucks, contract carrier trucks or common carrier trucks. Between November 1934 and January 1935 the vice president of the Association of American Railroads had approached each major oil company operating in the Southeast to explain the deal or bargain in contemplation.

He interprets the facts as he knows them.

Mr. HALL. May I note an exception to that conclusion. I think he interpreted the facts as he would like to have them.

Mr. FRANK. Perhaps so, but there is at least this much color to his suggestion that there had been some conferences of some kind preceding Mr. Pelley's memorandum, or letter, in that Mr. Pelley, in the first paragraph, which the Chairman went over with you in some

[1] Reading from "Exhibit No. 1293."

detail says, addressing Mr. Stewart of your company [reading from "Exhibit No. 1269"]:

Based on discussion with Mr. Cleveland, it is my understanding that in view of certain conditions to be later referred to herein, you have stated.

And so forth.

Now, do you want the committee to believe that this letter from Mr. Pelley sprang forth quite like Minerva, without any previous activity on anybody's part, and that it was a purely spontaneous suggestion of his and that he imputed to persons that had never met with him certain ideas which were solely his own?

Mr. HALL. You are imputing many things I haven't said, Commissioner Frank.

Mr. FRANK. Perhaps I am unfair. I didn't mean to be. I will rephrase my question. Do you think that Mr. Pelley just sat down and wrote this letter after talking with Mr. Cleveland and that Mr. Cleveland had never had any conference with Mr. Stewart that might give Mr. Cleveland and Mr. Pelley the idea that Mr. Stewart might be interested in the proposal?

Mr. HALL. I don't know whether Mr. Stewart and Mr. Cleveland had any conversation or not. I explained awhile ago that I had no knowledge of such conversation. I have had no opportunity because of Mr. Stewart's no longer being with us and being in another section of the country and I understand being ill, to check the matter with him.

I do want to insist whenever I get an opportunity if I may, Mr. Commissioner, that the November meeting and the Pelley letter, were wholly disassociated subjects and when I have an opportunity I will be glad to expand on that theory.

Mr. HENDERSON. May I be pardoned for another interruption. Concerning this question of there being complete disassociation between the Pelley memorandum and the Pelley letter and subsequent action, Mr. Orvis testified today to a personal conversation with a man by the name of Gresham from Standard Transportation of Raleigh, N. C., who had been trucking in North Carolina products of the Standard Oil Co. of New Jersey. He told Mr. Orvis in the presence of a witness, that his purpose in coming to New York was to see about moving his fleet of trucks to Virginia to serve the Standard Oil Co. there in the transportation of products, because it was no longer possible in the Carolina territory for purchasers of petroleum products from the major companies to have these products hauled by his trucks. And he said he had been told that very morning by the traffic department of the Standard Oil of New Jersey not to put his plan to go into Virginia into operation, because they were going to discontinue it there.

Now did the Standard Oil Co. of New Jersey discontinue that kind of service by truckers in the Carolinas at some period immediately following the sending of Mr. Pelley's letter?

Mr. HALL. No, sir.

Mr. HENDERSON. Then, do you believe this Mr. Gresham completely misunderstood?

Mr. HALL. I explained to the committee some time ago that it was the policy of the company at that time to keep the movement of its merchandise on the rails so far as competitive rates with other forms of carriers would permit. The Gresham situation becomes clear when one understands the conference of November 30 and the rate reduction of August 15 which I am still awaiting an opportunity to explain to the committee.

Mr. HENDERSON. Before we get into a——

Mr. HALL (interposing). I am quite willing to answer any question. I just want an opportunity to answer this thing when the time comes.

Mr. HENDERSON. There is no doubt in your mind that it was not possible for him to continue in business in North Carolina.

Mr. HALL. There is no doubt in my mind. I do not know the situation. I do know there was never a time when we were not using trucks after they became available to us.

Mr. HENDERSON. But you did make some shifts in order to give some hauling to the rails after that time.

Mr. HALL. I am not aware that any merchandise was taken away from truckers fully competent to handle it on a lower rate than the rails. I am not aware of the details of the Gresham transaction of which you speak.

Mr. HENDERSON. Just one more observation and then I will conclude. Mr. Cleveland in his letter of April 26 to Mr. Phelps had another felicitous paragraph, the concluding paragraph [reading from "Exhibit No. 1275"]:

> Finally in conclusion I want to express the hope that the representatives of the oil company will fully appreciate that which the southern carriers are proposing, and that that appreciation will be proven in a practical way by the oil companies using the rail facilities to the fullest extent possible.

Do you think there was no connection between that pious expression of a hope and what happened to Mr. Gresham?

Mr. HALL. I think the connection would be the level of the rate quoted by Gresham at the time and the level of the rate quoted by the railroads at the time.

The CHAIRMAN. Proceed with your statement, Mr. Hall. We will try to restrain our curiosity until you have completed.

Mr. HALL. I am quite willing to answer questions. I just want to stick with it until I get this explanation.

The CHAIRMAN. Certainly, the committee realizes that.

Mr. HALL. In the fall of 1934, 2 months or more before the Pelley letter of January 17, 1935, was written, the southern carriers asked the traffic men of the petroleum companies to meet with them in New York to discuss what rates were necessary, what lower rates, what reduction in rates in this southeastern territory were necessary to arrest this change of transportation from the rails to the motor carriers. That meeting was held at the Vanderbilt Hotel in New York on the 28th day of November 1934. I think probably the best way to describe that meeting is to read a memorandum prepared by Mr. E. D. Sheffe, assistant traffic manager of the Standard Oil Co. of New Jersey at the time. "Mr. Oliver"—parenthetically—Mr. Oliver is with the Southern Railway, "acted as chairman."

The CHAIRMAN. This is a memorandum from the files of the company?

Mr. HALL. Yes, sir. [Reading from the memorandum:]

Mr. Oliver acted as Chairman and opened the discussion with remarks which indicated that at least he, if not all of the railroad gentlemen present, were of the opinion that the Oil Companies were seriously disturbed by the practice that had recently grown up, especially in North Carolina, of dealers sending their trucks to the ports for Gasoline.

Mr. Oliver presumably felt that this situation was of such serious concern to the Oil Industry, that we would be glad to enter into some sort of a deal with the carriers that would minimize the amount of reduction they would have to make in rail rates to meet motor-truck competition. After considerable discussion, I believe they were convinced of the error of their premise, it being the position of the Oil Representatives that if they wished to retain the Petroleum tonnage, or to regain that which had already been diverted to trucks, it would be necessary to publish a low basis of rates and hope for satisfactory results.

It was emphasized that there were three kinds of truck competition confronting the carriers, i. e., dealer trucking, contract trucking, and Oil Company trucking, all of which represented, at the present time, a substantial volume and one that was rapidly increasing. Thereupon Mr. Capps referred to a scale which he had previously distributed to various Oil Company Traffic Representatives, a scale starting at 4¢ at 5 miles, reaching 10¢ at 100 miles, and 35¢ at 250 miles, and asked whether that would not do the trick. He was promptly advised by several of those present that the scale suggested was entirely too high to meet any one of the three forms of truck competition, although Mr. O'Day did state that the scale referred to just about represented their contract trucking costs in South Carolina, his inference being that such a scale would more than likely meet the situation.

After considerable further discussion, the meeting adjourned with the understanding that the Oil Company representatives would confer in the afternoon for the purpose of devising and submitting to the carriers a scale which, in their opinion, would meet the situation.

The writer made it clear at both sessions that we would not propose a basis but would be glad to give careful consideration to any scale published by the carriers. A similar position was assumed by the Gulf & Pure Oil Companies. Mr. Flynn's position seemed to be along these same lines.

At the afternoon session, those who favored submitting a scale, agreed upon a scale starting at 4¢ for 20 miles and advancing 1¢ for each 10 miles up to and including 250 miles. This, it will be observed, would make a rate of 12¢ at 100 miles, 17¢ at 150, 22¢ at 200, and 27¢ at 250 miles. These figures exceed by about 1¢ minimum trucking costs which Mr. Schad had predicated on new 3,800 gallon units operating in North Carolina, but Mr. Schad agreed that the proposed scale would more than likely keep their traffic to the rails. Furthermore, this scale followed rather closely, the C. F. A. minimum scale for short hauls and the Southwestern scale for the longer hauls, which many of those present agreed closely approximated trucking costs.

There were two schools of thought amongst the shippers; regarding the application of the scale, some contended that it should be applied universally throughout the South, whereas others were of the opinion that it should be used as a basis for publishing specific rates where necessary to meet actual or potential truck competition.

Another feature that came into the picture was the question of carrier completion. For example, Mr. Oliver, speaking for the Southern Railway, was desirous of maintaining a level of rates from Charleston, S. C., comparable with that established from Wilmington, North Carolina, destinations; and, while there seems to be justification for application of a uniform basis from the South Atlantic ports, it does not necessarily follow that the same level must be observed from Mississippi River crossings to points in the valley where truckload limits are less and road conditions substantially inferior to those in the Carolinas, Georgia, and Florida. The scale was submitted to Messrs. Oliver and Capps as what, in the best judgment of a majority of those present, was felt necessary to meet the situation.

It was understood that Mr. Tilford would be instructed to notify all members of the Southern Executive Committee to bring their files regarding this subject to the meeting which is taking place at Washington this week and the railroad executives with whom we conferred, stated they hoped that by the early part of next week they could give us a definite answer.

That, as you will observe, related to a reduction, a discussion initiated by the carriers looking to a reduction of rates in the southeastern zone to meet truck competition. It is quite different from the proposal which came along a little later from Mr. Pelley looking for the elevation of the interterritorial rates. No further action was had on that memorandum, so far as I can find, until the spring of 1935. There were further discussions and finally the railroads reduced the rates on movements for relatively short distances in the Southeast.

The CHAIRMAN. Did this not refer to interterritorial rates?

Mr. HALL. No, sir; this referred to local rates in the Southeast.

The CHAIRMAN. Going as far as 200 miles, it didn't refer to interterritorial rates?

Mr. HALL. No; the interterritorial rates are rates from the Mississippi Valley to the southeastern seaboard.

The CHAIRMAN. Did it refer to interstate rates?

Mr. HALL. These rates could well have been interstate in some instances and intrastate in other instances.

The CHAIRMAN. What is an interterritorial rate?

Mr. HALL. If I understand an interterritorial rate, it is a long distance rate from a general section of the country to another general section of the country.

The CHAIRMAN. As I understood the reading of that memorandum, the author of the memorandum stated that the first proposal made by the railroads was of a schedule of rates that was too high, or rates that were too high to meet truck competition; do you recall that statement?

Mr. HALL. Yes, sir.

The CHAIRMAN. So that the inference is clear that in order to eliminate the trucks as an instrumentality for carrying petroleum products, it would be necessary to offer a lower schedule of rates than was presented in the first exchange.

Mr. HALL. If the chairman will permit me to take a little dissent at his phrase, "eliminate the trucks," I would prefer to say to equalize competition between trucks and rails a lower rate than that proposed by the railroads would be necessary.

The CHAIRMAN. A lower rate than that proposed by the railroads would be necessary to meet the competition.

Mr. HALL. For the rails to meet the competition of the trucks; yes, sir.

The CHAIRMAN. Now that, of course, is what bothers me in the interpretation of the Pelley memorandum, because it seems to me to be obvious that if the railroads were discussing with the petroleum companies the abandonment by the petroleum companies of the transportation of petroleum products by truck, it might necessarily be that they would offer rates which would at least meet the truck rate. Now, isn't that a logical inference?

Mr. HALL. I see nothing in the Pelley memorandum that indicates the railroads were going to reduce their short-haul rates to the levels then being quoted by the trucking companies.

The CHAIRMAN. What consideration then was being offered to the petroleum companies to abandon the use of trucks by contract or their own trucks for distances of more than 50 miles?

Mr. HALL. If I correctly interpret the Pelley memorandum—and that is my only basis for expressing an opinion—it is that the other

advantages he thought he was offering the oil companies would be sufficient to prompt the oil companies to erect a barrier against the transference of shipment from rails to motor carriers.

The CHAIRMAN. And the only consideration he was offering, according to your interpretation, was an increase of the railroad rates?

Mr. HALL. Yes; that is one of the considerations, not all of them.

Mr. FRANK. Interterritorial rates from the Southwest to the Southeast?

Mr. HALL. That is right; yes, sir.

The CHAIRMAN. What was the first reference to the low basis of rates?

Mr. HALL. At the moment, Mr. Chairman, my eye doesn't fall on that expression. Would you like a copy of the memorandum?

The CHAIRMAN. Thank you.

This is the sentence [reading from memorandum under discussion]:

After considerable discussion, I believe they were convinced of the error of their premise, it being the position of the oil representatives that if they wished to retain the petroleum tonnage or regain that which had already been diverted to trucks, it would be necessary to publish a low basis of rates and hope for satisfactory results.

Mr. HALL. I think that means that the railroad proposal was not in the opinion of the traffic men low enough to accomplish the objective the railroads had in mind. They had to go to a lower rate than that.

The CHAIRMAN. So that this whole discussion had to do with the rates for short hauls.

Mr. HALL. Yes; rates up to 250 or 300 miles; up to that approximate maximum.

The CHAIRMAN. Two hundred fifty was, I think, the limit.

Mr. HALL. That was the figure expressed in the Pelley memorandum. It doesn't appear here.

The CHAIRMAN. In this discussion, then, your representative was conveying at all times to the railroad representatives that it was desirable from the point of view of the petroleum companies to have lower rates in order to meet the truck competition.

Mr. HALL. No; not at all, Mr. Chairman. Our representative was conveying to the railroads the thought that if the railroads wanted to recapture merchandise which had gone from rail to trucks, or to prevent the transference of further merchandise from rail to trucks, they would have to go lower. Our conversation was directed to what the railroads would have to do to arrest the transformance of shipping methods which was then being observed.

The CHAIRMAN. In other words, in order to induce the petroleum companies to use the rails rather than trucks on these short hauls, it would be necessary to reduce the rates?

Mr. HALL. Yes; reduce the rail rates, and get them down where they were truly competitive with the then existing truck rates.

The CHAIRMAN. Now it is becoming clear. But in the memorandum which Mr. Pelley addressed to your company, a memorandum which, on its face, was not the beginning of the discussions, he suggested to the petroleum companies an increase of territorial rates.

Mr. HALL. Of interterritorial rates; yes, sir.

The CHAIRMAN. Now, am I to understand that he conceived that

increase of rates to be something that the petroleum companies would regard as advantageous to them?

Mr. HALL. That would be my interpretation of the Pelley letter; yes, sir.

The CHAIRMAN. Then, would I be correct in drawing the inference from this testimony which you have now given that the consideration moving to the petroleum companies for an increase of territorial rates——

Mr. HALL (interposing). Intraterritorial.

The CHAIRMAN. No, no; I mean interterritorial.

Mr. HALL. In a territory; yes, sir.

The CHAIRMAN. The consideration moving to the petroleum companies by reason of this increase of territorial rates would be that the petroleum companies in this area, using some other form of transportation, could charge the consumer the higher freight. Is that the inference to be drawn?

Mr. HALL. I interrupted the question and it has got a bit away.

The CHAIRMAN. I will restate it. We have this situation developing now that your representative prepared a memorandum which you have withdrawn from your office files and presented to the committee, in which he very clearly set forth that for the purpose of meeting the competition of the trucks it would be necessary for the railroads to reduce their rates.

Mr. HALL. Yes, sir; in the southeastern zone.

The CHAIRMAN. Now, here we are talking about the transportation of petroleum for distances up to 250 or 300 miles, and we are talking about meeting truck competition; that is to say, the railroads meeting a more economical method of transporting petroleum, are we not?

Mr. HALL. Yes, sir.

The CHAIRMAN. But Mr. Pelley, in discussing the whole question of freight rates with a large number of petroleum companies, of which your company was one, having quite obviously had the matter under discussion for some time and having finally reached that position in the discussion that he reduced it to a memorandum in which he set forth your proposition, meaning the proposition of the petroleum company, he deemed that he was offering the petroleum companies something when he offered to increase the interterritorial freight rates.

Mr. HALL. I would accept all of the Chairman's conclusion except that which involves the assumption that there had been discussions between Mr. Pelley and the railroads, a subject we have been over. I know of no such discussions.

The CHAIRMAN. But if you won't accept my inference, let me explain to you why I draw the inference and then perhaps without any more knowledge than I have of this matter you may draw the same inference, because I get it only from the language.

He says [reading from "Exhibit No. 1269"]:

> Based upon discussion with Mr. Cleveland, it is my understanding that in view of certain conditions to be later referred to herein, you have stated that you * * *

That is the past tense, is it not?

Mr. HALL. Yes, sir.

The CHAIRMAN (continuing):

> * * * you have stated that in the Southeast you will discontinue trucking from your water terminals or refineries to the interior for distances in excess of forty to fifty miles—

And so forth.

Now, Mr. Hall, am I not justified in making the inference from that that he is referring to previous conferences and negotiations?

Mr. HALL. Judging from the face of the letter alone, that may be so.

The CHAIRMAN. Very good. Now, do you know of anything you could relate to me which would justify me in drawing any other inference?

Mr. HALL. I know of no discussions on the subject, Mr. Chairman.

The CHAIRMAN. Then, you and I must both accept the plain implication of the English language here, that Mr. Pelley was referring to previous discussions and the previous offer.

Mr. HALL. With much respect, I am not willing to accept that, because, if I understand the testimony here, the letter was sent to 12 or 13 petroleum companies. I don't know what Mr. Pelley had in mind. I know of no conference within my own company.

The CHAIRMAN. I acknowledge that, sir. You have testified here that you have no knowledge of any conference in which your company took part. But I am merely asking for the interpretation of a lawyer who has reached the distinction of being the chief counsel of the Standard Oil of New Jersey as to the inference that the chairman of this committee is authorized to draw from this language.

Now, let me read the language again in "Exhibit No. 1269":

> Based upon discussion with Mr. Cleveland, it is my understanding that in view of certain conditions to be later referred to herein, you have stated that in the Southeast you will discontinue trucking from your water terminals or refineries.

Mr. Hall, was he or was he not, in your opinion, referring to a previous conference or conversation or communication of some kind?

Mr. HALL. I think he must have—he seems to have been referring to a previous conversation. With whom I do not know.

The CHAIRMAN. Of course. That is my conclusion and it is your conclusion. It took a long time for us to get down to that point.

All right. Now, then, we are also agreed upon this conclusion, that your representative who drafted this memorandum told the railroad companies that if they were to meet truck competition they would have to reduce their rates.

Mr. HALL. Yes, sir.

The CHAIRMAN. But Mr. Pelley, in this other memorandum, conceived it to be of some advantage to the petroleum companies to increase their rates. Now, will you tell me why it was that Mr. Pelley had the notion that though clearly from your representative's memorandum it was desirable, in order to get the cheap transportation of trucks, to reduce rates on short hauls, it could possibly be a desirable thing for the petroleum companies to increase the rates of transportation on interterritorial hauls?

Mr. HALL. Mr. Pelley seems, by his letter of January 17, 1935, to have reached the conclusion in his own mind, by what route I do not know, that the oil companies to whom he addressed the memorandum

would derive some advantage from the various conditions that he proposed, which would prompt them to do what they could to stop the transference of movements of petroleum from the rails to motor carriers.

The CHAIRMAN. Now, in your judgment, as the chief counsel of this very important petroleum company, what possible idea could he have had in his mind?

Mr. HALL. Why, I think it is very clear that he had in his mind that it would benefit some of these companies to have higher freight rates from points west of the Mississippi River into the southeastern territory than to have the existing freight rates.

The CHAIRMAN. Why would it be of benefit to a petroleum company which was engaged in transporting petroleum products to the consumer and trying to sell those products at the lowest possible price to the consumer? Why would it be beneficial to such a company to increase the cost of transportation.

Mr. HALL. May I have that question again? I'm sorry.

(The reporter reread the question.)

Mr. HALL. Mr. Chairman, I have previously testified that I have been unable to see any substantial advantage to my own company in that respect. I don't want to attempt to testify with respect to companies whose operations and views I am not familiar.

The CHAIRMAN. Yes; I can understand your disinclination to do that, but this is a committee which is striving its best, and very laboriously, to understand this industry for the light that it may throw upon the great problems that are before the country. Now, you are thoroughly familiar with the oil business:

Mr. HALL. No; I am sorry I am not. I wish I were.

The CHAIRMAN. Well, it would be reasonable to assume——

Mr. HALL (interposing). Thank you.

The CHAIRMAN. That as chief counsel for this company, you are at least reasonably familiar with the business. Would you be willing to express an opinion, without mentioning any other company, how an increase of freight rates would be beneficial to such a company operating in this territory?

Mr. HALL. No, Mr. Chairman; I think I ought not to express such an opinion.

The CHAIRMAN. I will tell you why I ask you the question, Mr. Hall; because the testimony has been given here by those who have been criticizing the operation of the oil industry that in the integrated company great profits are made in production, and great profits are made in transportation, and losses are incurred in marketing, and that by reason of the profits which are made in transportation, it is possible for companies like yours to sell to the consumer at a loss and, selling to the consumer at a loss, to drive the independent retailer out of business, and thereby interfere with free, private enterprise, small business. So here comes a situation in which you yourself have testified that Mr. Pelley, of the Association of American Railroads, a very important position and a very distinguished and able gentleman, had the idea that it would be beneficial to the petroleum companies to increase the freight rates. In other words, to increase the cost of transportation of petroleum products paid for by the consumer. Now, with that explanation of the reason for my question, do you care to offer any opinion?

Mr. HALL. Mr. Chairman, I am not an economist, I am not a marketer, I am not a general executive, I am a lawyer. I think I would be going far beyond my field to embark on the subject you have opened.

The CHAIRMAN. Mr. Hall, this isn't a question for economists, it is not a question for lawyers, it is not a question for industrial executives or for politicians, if you please. This is a question for common, ordinary citizens. And a lot of these common, ordinary citizens have appeared before this committee with their point of view, and I am asking for your point of view, as a citizen, not as a lawyer.

Mr. HALL. I think one has to have possession of accurate facts to answer your question. I haven't those facts in mind, and I dislike to draw on any imagination I may have, and I beg the committee's indulgence.

The CHAIRMAN. Of course, I am not asking you to draw on your imagination. I wouldn't think of doing that. I merely had the idea that since you have been associated with this company over so long a period, you were probably sufficiently familiar with the operation of the oil business to give an opinion that would be of value to the committee. Now, if you don't care to give it, that is all right.

Mr. HALL. I appreciate the compliment of the chairman's observations, but I still think I ought not to venture an opinion on the subject.

The CHAIRMAN. Very well; I shan't pursue the matter any further. Are there any other questions?

Mr. COX. I had a few questions that I would like to ask, if I may, Mr. Chairman.

The CHAIRMAN. Mr. Cox.

Mr. COX. Mr. Hall, as I understand your testimony, after the end of March, in 1935, there were some conferences between representatives of the railroads and representatives of the oil companies at which rates within the Southeastern territory were discussed. Is that correct?

Mr. HALL. Yes, sir.

Mr. COX. And I have been assuming, and I ask you now to tell me whether it is a fair assumption, that in your opinion there is nothing illegal in that kind of conference, where the representatives of the oil companies and the representatives of the railways bargain collectively about rates?

Mr. HALL. That is my firm conclusion.

Mr. COX. So that when you reached the conclusion that this proposal in the Pelley memorandum was illegal, it was not because the memorandum envisaged an agreement between the parties thereto as to rates, but because of certain other things.

Mr. HALL. Yes, sir.

Mr. COX. And these forbidden things, if we may call them such, were such things as discontinuing trucking, and reformation of leases, and the discouragement of leases for filling-station operations, is that right?

Mr. HALL. Yes, sir.

Mr. COX. Now, would it also be fair to assume that in your opinion, Mr. Hall, there is nothing illegal in any of those things per se. it is only the way in which it was proposed that they be accomplished in this Pelley memorandum? Is that correct?

Mr. HALL. At the time I considered them in the way they were proposed; I didn't consider them per se.

Mr. COX. Do you care to express an opinion now as to whether or not it would be illegal for an individual oil company to discontinue trucking from its terminals?

Mr. HALL. I think I would want to give the matter careful consideration before I expressed an opinion.

Mr. COX. You don't feel that you can express an opinion on that?

Mr. HALL. I prefer not to express an offhand opinion.

Mr. COX. Does the Standard Oil Co. of New Jersey ever discontinue trucking from any of its terminals and use railroad transportation instead?

Mr. HALL. Not by agreement with anybody.

Mr. COX. Does it do it of its own volition?

Mr. HALL. When it is economical for it to do so I presume it does. I have no instance in mind.

Mr. COX. Have you ever considered whether it is legal?

Mr. HALL. For the Standard Oil to take an action in its own uncontrolled judgment without agreement with anybody?

Mr. COX. That is what I have been asking.

Mr. HALL. I haven't considered it.

Mr. COX. Would you care to express an opinion on that?

Mr. HALL. I see nothing unlawful in that.

Mr. COX. If it isn't unlawful it wouldn't be made unlawful merely by reason of the fact that some other oil company might at the same time discontinue delivery by truck from its terminal?

Mr. HALL. It is a wholly independent action and I think I would agree with it.

Mr. COX. And similarly by wholly independent action both companies might adopt the policy of discouraging filling-station leases, might they not?

Mr. HALL. I would think so, wholly independently; I emphasize that in response to every one of your questions.

Mr. COX. Yes; I understand that. Now you don't think, do you, that the company's capacity to act wholly independently in 1936 and 1937 was materially impaired by this Pelley memorandum, do you?

Mr. HALL. No, sir.

Mr. COX. So that a number of oil companies, well, all 12 or 13 of them, to whom this memorandum was addressed, in your opinion might have discontinued trucking or discouraged leases for filling-station operations in 1936 and '37 without violating the law?

Mr. HALL. I think so.

Mr. COX. And there wouldn't be any violation of the law unless you could show that there were some connection between that action and this Pelley memorandum. Is that correct?

Mr. HALL. Oh, I could imagine other circumstances under which there might be a violation of law, but assuming the factual situation you build up——

Mr. COX (interposing). Assuming that factual situation, is your answer "yes"? Is that correct?

Mr. HALL. If I understand correctly your question you are asking if I could see anything violating the law if the petroleum companies, several petroleum companies, acted entirely independently in 1936 and

1937 and reached a decision to discontinue the movement of merchandise by trucks and transfer it to rails. My answer is "no," and my answer is that the existence of the Pelley memorandum would not change my view.

Mr. Cox. Now what tests do you apply for determining whether or not they acted independently?

Mr. HALL. Acting by themselves, sole judgment, unpersuaded by any joint action or joint consideration.

Mr. Cox. Would it be fair to say that what you are speaking of there is the state of mind of the men in the companies that make the decisions?

Mr. HALL. I don't know that I get your question exactly, Mr. Cox.

Mr. Cox. I thought it was perfectly clear. Will the reporter read the question?

(The reporter reread the immediately preceding question: "Would it be fair to say that what you are speaking of there is the state of mind of the men in the companies that make the decisions?")

Mr. HALL. I still am perplexed by the question, Mr. Cox.

Mr. Cox. I will withdraw it and put it this way. Will you read to Mr. Hall his last answer?

(The reporter read the following answer of the witness: "Acting by themselves, sole judgment, unpersuaded by any joint action or joint consideration.

Mr. Cox. I ask you if in that answer you weren't referring to a state of mind when you spoke of "sole judgment."

Mr. HALL. I think a state of mind is part of it; yes, sir.

Mr. Cox. What else?

Mr. HALL. The existence of any agreements.

Mr. Cox. Then we come to this. So long as there were no external indications of the sort contained in the Pelley memorandum, the test is wholly subjective, is it not?

Mr. HALL. I am not sure I know the use that you make of the word "subjective."

Mr. Cox. I will put it the other way. Excluding such external manifestations as the Pelley memorandum, it would be a sole question of the state of mind of the officials of the oil companies, would it not?

Mr. HALL. I think so.

Mr. Cox. Do you know of any way in which that can be ascertained except by the process which we have been going through with you this afternoon?

Mr. HALL. Yes; I think there are other ways.

Mr. Cox. What other?

Mr. HALL. By the examination of people concerned.

Mr. Cox. Do you mean by going through the same process with someone else?

Mr. HALL. Not this process; the examination of participants in the various appearances we have been discussing this afternoon.

Mr. Cox. But so far as the oil company officials are concerned, it requires an examination into their state of mind, doesn't it?

Mr. HALL. Yes.

Mr. Cox. And that is the only way you can find out, is it not, whether or not it would be violation of laws.

Mr. HALL. You and I are having some difficulty understanding one another. At least I am having some difficulty understanding you, Mr. Cox.

Mr. COX. I am content.

The CHAIRMAN. Did you have anything else to add?

Mr. HALL. No, Mr. Chairman.

(The witness, Mr. Hall, was excused.)

The CHAIRMAN. Did Mr. Klein want to be heard this evening?

Mr. KLEIN (approaching the committee table). Mr. Chairman, if you please.

The CHAIRMAN. Do you solemnly swear that the testimony you are about to give in these proceedings shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. KLEIN. I do.

TESTIMONY OF HARRY T. KLEIN, GENERAL COUNSEL, THE TEXAS CO., NEW YORK CITY

The CHAIRMAN. Will you give your name to the reporter?

Mr. KLEIN. My name is Harry T. Klein. I have been associated with the legal department of the Texas Co. since 1921. I have been general counsel to that company since 1925.

The CHAIRMAN. Now, Mr. Klein, it is quarter of six. Some members of the committee have indicated a desire not to have a session tomorrow and we have, I am afraid, a very full week next week and we are hoping to bring this study to a conclusion by that time. How long is the statement that you would like to make?

Mr. KLEIN. I hope to finish within 10 minutes.

The CHAIRMAN. I will hope that the members of the committee will not pursue the questioning too long. Of course, we do want to illuminate the subject.

Mr. KLEIN. I will go right into our correspondence relating to this letter of Mr. Pelley of January 17, 1935. Prior to the time that this letter was referred to me by our president, Mr. Rodgers, I had no knowledge of any prior negotiations with the railroads.

The CHAIRMAN. You had no knowledge. Did anybody have any knowledge of it in your company?

Mr. KLEIN. They must have had, judging from the facts that will be disclosed by this correspondence. Personally I had none.

The CHAIRMAN. You feel that I was justified in my inference that this memorandum of Mr. Pelley's shows on its face that it was referring to previous conferences or communications of some kind?

Mr. KLEIN. I think it is quite evident that there were some prior negotiations, but I don't think that they related to the subject matter that Mr. Pelley actually put into his letter of January 17 and that I believe will be disclosed by what goes on.

This letter of January 17 is already in the record so, unless the committee prefers, I will not offer our copy of it.

The CHAIRMAN. Oh, no. Portions of it have been read into the record several times now.

Mr. KLEIN. The next letter from the files of the Texas Co. is a carbon of a letter from Mr. Rodgers, president of the Texas Co., to

Mr. J. J. Pelley, president, Association of American Railroads, dated January 19. It says [reading from "Exhibit No. 1285"]:

I have your letter of January 17 with reference to my recent discussion with Mr. Cleveland. In principle, we are sympathetic with what Mr. Cleveland has been trying to work out, but I think there is a possibility there is some misunderstanding in reference to some of the points raised in our recent conference.

Mr. Charles Ervin, our Traffic Manager, expects to see Mr. Cleveland in Washington, the first part of next week, on some other matters, and I have asked him to discuss this subject with Mr. Cleveland, and in case there has been a misunderstanding, to clear it up.

I would like to offer that for the record, although it is not the original.

The CHAIRMAN. It may be received.

(The letter referred to was marked "Exhibit No. 1285" and is included in the appendix on p. 9328.)

Mr. KLEIN. The next letter is an original letter from Mr. Pelley, dated January 23, 1935. He says [reading from "Exhibit No. 1286"]:

I want to thank you for your kind letter of the 19th. Of course, neither Mr. Cleveland nor I desired any misunderstanding with reference to the matter regarding which I wrote you under date of January 17th. Mr. Cleveland advises me that he had a long interview with Mr. Ervin yesterday, and that he has given Mr. Ervin full information in regard to all questions that he had in mind. He is of the opinion that with the explanations made, Mr. Ervin is fully satisfied. I regret that I was not in Washington when Mr. Ervin called, as I should have been most pleased to have met him and to have participated in the conference.

I would like to offer that letter.

The CHAIRMAN. It may be received.

(The letter referred to was "Exhibit No. 1286" and is included in the appendix on p. 9328.)

Mr. KLEIN. About that time Mr. Rodgers consulted me. He said he had some doubts about Mr. Pelley's letter of January 17 and he asked my opinion regarding it.

The CHAIRMAN. Was that before or after he wrote the letter to Mr. Pelley?

Mr. KLEIN. I am under the impression it was after that letter but before this letter that I am now going to read. I told Mr. Rodgers that in my opinion, if the agreement set out in Mr. Pelley's proposal was consummated, that it would constitute violation of the law, and I advised against the Texas Co. entering into any such arrangement. So on January 29, Mr. Rodgers wrote Mr. Pelley [reading from "Exhibit No. 1287"]:

Receipt is acknowledged of your letter of January 23. I have discussed the subject matter of your letter of January 17 with our general counsel. He advises that inasmuch as the practical effect of the arrangement proposed in your letter is an agreement among the major competitive oil companies to forego certain methods of competition, before we would be justified in finally agreeing to the arrangement it would be advisable to reduce the details to writing and submit the proposal to the National Oil Administrator for consideration in accordance with the provisions of Section 4-A of the National Industrial Recovery Act. If you are in accord with the effort being made to work out the details of the arrangement on this condition, I will be glad to have the matter pursued further by representatives of our company.

I would like to offer that for the record.

The CHAIRMAN. It may be received.

(The letter referred to was marked "Exhibit No. 1287" and is included in the appendix on p. 9328.)

Mr. KLEIN. The next letter received was an original letter from Mr. Pelley to Mr. Rodgers, dated January 31. [Reading from "Exhibit No. 1288":]

This will acknowledge receipt of your letter of January 29. The questions raised by you will be given prompt consideration. I would like to suggest, subject to your approval, that Mr. Fort, our general solicitor, and Mr. Cleveland have a conference with your general counsel on Thursday or Friday, February 7 or 8, whichever will best suit his convenience, in order to discuss the matter and ascertain from him what it is he would like to have us do. It is our thought that the matter can be handled much better by conference than is possible through correspondence.

I would like to offer that letter for the record.

The CHAIRMAN. It may be received.

(The letter referred to was marked "Exhibit No. 1288" and included in the appendix on p. 9329.)

The CHAIRMAN. That is a letter from Mr Pelley.

Mr. KLEIN. Original letter from Mr. Pelley, dated January 31.

The next letter is a letter from Mr. Rodgers to Mr. Pelley [reading from "Exhibit No. 1289"]:

I have your letter of January 31. Mr. H. T. Klein, vice president and general counsel, will be very glad to discuss this subject with Messrs. Fort and Cleveland on either next Thursday or Friday. Inasmuch as I shall be out of town next week I suggest that these gentlemen communicate with Colonel Klein direct and arrange a convenient time.

I would like to offer that letter for the record.

The CHAIRMAN. The letter may be received. All of these letters may be received.

(The letter referred to was marked "Exhibit No. 1289," and is included in the appendix on p. 9329.)

Mr. KLEIN. The next development was a telegram I received from Mr. A. F. Cleveland, dated February 4 [reading from "Exhibit No. 1290"]:

Please refer to Mr. Rogers'[1] letter, February first, to President Pelley. Would it be convenient to you to see Mr. Fort and the undersigned your office ten thirty Thursday morning, February seventh?

(Signed) A. F. CLEVELAND.

I would like to offer that.

(The telegram referred to was marked "Exhibit No. 1290," and is included in the appendix on p. 9329.)

Mr. KLEIN. I telegraphed in reply under date of February 4, to Mr. Cleveland [reading from "Exhibit No. 1291"]:

Your telegram, will be glad to see you and Mr. Fort in my office ten thirty Thursday morning, February seventh.

I have on this telegram some shorthand notes of mine, to this effect:

Conference in office today with Messrs. Cleveland, Fort, Hall [the previous witness], Phelps, Macatee [one of our traffic men], and myself. Hall and Fort are to get together and submit the matter to Fahy for consideration.

[1] Name misspelled in original document. Should have been R-o-d-g-e-r-s.

Mr. Fahy was counsel, I think, for the Petoleum Administration Board. I think he was the chairman of that board.

I would like to offer that telegram and these shorthand notes.

(The telegram referred to was marked "Exhibit No. 1291," and is included in the appendix on p. 9329.)

The CHAIRMAN. Mr. Klein, I notice you are stripping your file. Do you want these originals back?

Mr. KLEIN. Whatever the committee wishes.

The CHAIRMAN. They will all be copied and we can return them to you.

Mr. KLEIN. We would like to have them back.

The last development in our file is under date of March 25, 1935. I might say that up until last week, after this letter I refer to next was written, I heard nothing further of this proposal in Mr. Pelley's letter until the matter was brought up here by Mr. Orvis, and I don't know personally that the matter ever was submitted here at Washington, although I understood in talking to Mr. Hall that it was discussed with, I think, Mr. Fahy.

The CHAIRMAN. When did you get that understanding from Mr. Hall?

Mr. KLEIN. I talked to him yesterday about the subject and he told me he is under the impression that he came down, he wasn't certain, and that it was discussed with Mr. Ickes, but I am quite sure it was discussed with Mr. Ickes—I beg your pardon, Mr. Fahy.

Mr. Rodgers wrote Mr. Pelley under date of March 25, 1935 [reading from "Exhibit No. 1292"]:

> Referring further to your letter of January 17 and my letter to you of January 29, regarding transportation of petroleum products in the southeastern states:
>
> Conferences at which the subject matter of these letters was fully discussed have been held by Messrs. Cleveland, Fort, and Klein. In view of the legal difficulties involved, it is my opinion that it will not be practicable for us to carry out the suggestions contained in your letter of January 17th, and I therefore suggest that the matter be dropped.

(The letter referred to was marked "Exhibit No. 1292" and is included in the appendix on p. 9330.)

Mr. KLEIN. There is no further development in the Texas Co. legal file, and personally, as I say, I have never heard anything of it after that letter was written.

You notice that letter directs that the file be closed.

The CHAIRMAN. And is the file closed?

Mr. KLEIN. The legal-department file is closed. We have traffic files in the southeastern territory just like we have all over the country, where we are endeavoring all the while to get reductions in freight rates.

The CHAIRMAN. What was the subject of the conference of which you made the notation in shorthand on the telegram that you have just offered for the record?

Mr. KLEIN. The legality of the proposed arrangement:

> Conference in office today with Messrs. Cleveland, Fort, Hall, Phelps, Macatee, and myself. Hall and Fort are to get together and submit matter to Fahy for consideration.

That was a memorandum made on the day of the conference.

The CHAIRMAN. How long did the conference last?

Mr. KLEIN. Well, I haven't any distinct recollection, but I think it was rather short. Both Mr. Hall and I were pretty well convinced that we couldn't accept the proposal unless it had the approval of the Oil Administrator acting for the President.

The CHAIRMAN. Well, you recall the correspondence which Mr. Hall put in the record.

Mr. KLEIN. I do.

The CHAIRMAN. The letter from Mr. Hall to Mr. Pelley, expressing doubt of the legality of the proposal and expressing a question as to whether or not the matter had been discussed by the counsel for the Association of American Railroads.

Mr. KLEIN. I do.

The CHAIRMAN. And you recall Mr. Pelley's response that the matter had been discussed by the counsel. Do you recall that?

Mr. KLEIN. I didn't recall that.

The CHAIRMAN. That was the answer.

Mr. KLEIN. I assume that was the answer.

The CHAIRMAN. And Mr. Fort was that counsel; was he not?

Mr. KLEIN. Mr. Fort came to New York and discussed it with the two of us.

The CHAIRMAN. And what was his opinion as expressed to you in the conference?

Mr. KLEIN. It is very indistinct, but my recollection is that he had some doubt whether or not our position was sound, that the arrangement would be an illegal one, and that we were probably borrowing trouble in insisting that it should be approved by the Oil Administrator.

The CHAIRMAN. Did he try to persuade you that your view was unsound?

Mr. KLEIN. I don't think so; but that is a mere impression on my part. I may be mistaken as to that.

The CHAIRMAN. And no other subject was discussed except this question of the legality?

Mr. KLEIN. Not that I recall at this time.

The CHAIRMAN. And your recollection now is practically confined to the expression of opinion by yourself and Mr. Hall and does not include the expression of opinion by Mr. Fort and Mr. Cleveland?

Mr. KLEIN. That is my impression.

Mr. O'CONNELL. Would it be fair to infer from what you have told us that your company thought the plan was a desirable one from the point of view of your company, but that you were impeded by the existing legislation from carrying that out?

Mr. KLEIN. Well, I am not a traffic expert, Mr. O'Connell, but I am under the impression that our people did favor a reduction of southeastern rates. Some of the companies had installed water transportation, some had put in motor transportation, and I have in my file a study of a proposed pipe line.

Mr. O'CONNELL. But as I understand it, if I may just interrupt, the thing which was generally under discussion at the meeting at your office was the memorandum of Mr. Pelley of January 17.

Mr. KLEIN. The legality of it, but not the details.

Mr. O'CONNELL. At least it was being considered seriously enough so that it was taken up with the authorities in Washington.

Mr. KLEIN. I think our companies were seriously considering it; yes.

Mr. O'CONNELL. The plan as indicated in the memorandum of Mr. Pelley?

Mr. KLEIN. That is true.

Mr. FRANK. That plan contemplated, as I understand it, an increase of the interterritorial rates.

Mr. KLEIN. An increase in the interterritorial rates, but also I think it contemplated reductions of rates along the seashore and probably up from the Gulf.

The CHAIRMAN. That was not set forth in the Pelley memorandum.

Mr. KLEIN. No; but that is the subject matter of some of the memoranda that have been introduced here today.

The CHAIRMAN. Your first statement just now with respect to the attitude of your traffic department, if I understood it correctly, was that your traffic department felt that a reduction of rates would be desirable.

Mr. KLEIN. I think that is true certainly along the Atlantic coast to meet truck competition, and probably from the Gulf north.

The CHAIRMAN. Did your traffic department consider that an increase of the interterritorial freight rates would be beneficial to the Texas Co.?

Mr. KLEIN. I didn't discuss that with our traffic man, and I couldn't give a definite answer on that.

The CHAIRMAN. Do you agree with me that this memorandum of Mr. Pelley, the memorandum of January 17, would seem to indicate that he considered that an increase of the interterritorial rates would be advantageous to the companies to whom he was offering it?

Mr. KLEIN. I have my private opinion on that.

The CHAIRMAN. Would you be good enough to give it to us?

Mr. KLEIN. I couldn't say whether it is sound from our company's policy or not, but if I recall correctly, in 1934 east Texas was running wild. There was a lot of "hot oil" being produced in that neighborhood. The Connally Act was being agitated and a lot of this "hot oil"—you understand this was during the code days when they were trying to clear up a lot of difficulties. The refiners in east Texas who would buy legitimate oil couldn't compete with these little fellows who bought "hot oil" and would ship it over into these territories, so this is merely my private opinion: I think that the purpose at that time was to take care of the situation until the Connally Act could be passed.

The CHAIRMAN. In what way?

Mr. KLEIN. By equalizing the price at which these little fellows who were selling "hot oil" in east Texas would be able to distribute oil in the southeastern part of the country.

The CHAIRMAN. In other words, the plan was to increase the cost of transportation to the little fellows on the supposition that they were handling "hot oil"?

Mr. KLEIN. These men who were handling "hot oil"—that is my private opinion.

The CHAIRMAN. But of course it would operate to the disadvantage of a little fellow who was handling legitimate oil just as well as though he were handling "hot oil."

Mr. KLEIN. Well, there were a lot of compensating circumstances, Mr. Chairman, for the little fellow under the code who was handling legitimate oil.

The CHAIRMAN. Are there any other questions?

Mr. O'CONNELL. I would like to know what some of them were.

Mr. KLEIN. Well, at the request of the oil administrator, some of the companies bought oil from the little independent refiners who were buying legitimate oil. That was one compensating factor.

Mr. O'CONNELL. You mean compensation which was in effect derived from the majors by voluntarily buying their oil when they didn't have to buy it?

Mr. KLEIN. That is right.

Mr. O'CONNELL. I take it the Texas Co. has no particular occasion to use rail transportation from East Texas or the Texas area.

Mr. KLEIN. We have pipe lines from East Texas into Port Arthur and into Houston and we use relatively little rail transportation, I think, in that section.

Mr. O'CONNELL. So to the extent that your company might be interested in increasing the interterritorial rates, it was increasing the rates for a form of transportation not used by your company but used by your competitors.

Mr. KLEIN. I don't think we were so much interested, Mr. O'Connell, in that question. I think what we were interested in was a reduction of rates. It has been the policy of our company as long as I can remember to get as cheap a transportation rate, with the idea that we can get our product to the consumer at the cheapest possible price. For instance, when you consider that very frequently the transportation cost from refinery to service station is in excess of the tank-car price of the product at the refinery, you can appreciate that it is quite an item.

Mr. HENDERSON. Mr. Klein, you have relatively little rail transportation. In your billings do you add the all-rail freight?

Mr. KLEIN. Mr. Henderson, I really couldn't tell you that. I don't know what our practice is.

Mr. HENDERSON. It seems to me it is rather important to know.

Mr. KLEIN. We have water terminals, I think, at New Orleans and Mobile.

Mr. HENDERSON. Don't you add the freight rate from group 3 to Raleigh? Isn't that your practice?

Mr. KLEIN. I think our price is set more by competition in the local area rather than at basing point and adding transportation.

Mr. HENDERSON. You do in some cases add the all-rail regardless of what the method of transportation was?

Mr. KLEIN. That may be true in certain cases. I think, though, in most instances we have to meet competition.

Mr. FRANK. You haven't been consulted as a lawyer about the legality of any such device?

Mr. KLEIN. No.

The CHAIRMAN. But your testimony is that the Texas Co. withdrew from all consideration of this plan and didn't participate.

Mr. KLEIN. And to my knowledge we never tried directly or indirectly to carry out the provisions of that Pelley letter.

The CHAIRMAN. Do you know whether or not it was ever carried out by anybody else?

Mr. KLEIN. No; I think not. I do know this generally. The transportation rates in the Southeast were probably the highest in this country, and there have been two, probably three, reductions in the rail rates since that time. I think one is pending now, if I am not mistaken.

Mr. O'CONNELL. Were those interterritorial rate reductions?

Mr. KLEIN. I couldn't say as to that. I just know generally.

Mr. O'CONNELL. The particular reductions that we heard about this afternoon were what you might call local rates?

Mr. KLEIN. Well, I might say that there is a difference in the position of the Standard Co. and the Texas Co. They have certain local competitive advantages by reason of the location of their plants and we have certain advantages by reason of the location of our plants, and I think you will find that in the discussion between Mr. Stephens, who was the traffic manager of the Standard of Kentucky, and Mr. Ervin, who is our traffic manager.

I think I can say as a general rule that the companies prefer practically all the time a reduction of freight rates, but occasionally here and there, there are local instances where one company has a competitive advantage and in such cases is apt to oppose a reduction of rates.

Mr. O'CONNELL. Would you say that in general your company would support and be in favor of a reduction in freight rates in a territory in which you didn't use rail? That is, take the situation as it exists in the Southeast, you don't ship by rail from the Southwest.

Mr. KLEIN. We ship to our water points by water and then we ship by rail or truck to our inland points.

Mr. O'CONNELL. Yes; but do you know whether your company has ever made any attempt to get the interterritorial rates from the Southwest to the Southeast reduced or raised?

Mr. KLEIN. I could not say.

Mr. O'CONNELL. That is the type of transportation which you don't use but on which your prices are in same cases based, I take it.

Mr. KLEIN. That is true. I was going to volunteer something, but I won't.

The CHAIRMAN. Mr. Cox, do you care to ask any questions?

Mr. COX. No.

The CHAIRMAN. Are there any other questions?

The statement of Mr. Orvis, I think will be admitted to the record.

(The prepared statement of Eugene L. Orvis was marked "Exhibit No. 1293" and is included in the appendix on p. 9330.)

The CHAIRMAN. If there are no further questions, Mr. Klein, you will be excused. We are grateful to you for your statement.

The committee will stand in recess until Monday morning at 10:15, when it will assemble in room 357. A representative of the Federal Trade Commission will appear in the morning. In the afternoon Mr. Schuh, who was mentioned in the testimony here during the week and who is a representative of one of the retailers' associations, will appear in the afternoon.

The committee will now stand in recess.

(Whereupon, at 6:10 p. m., the committee adjourned until Monday, October 16, 1939, at 10:15 a. m.)

INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

MONDAY, OCTOBER 16, 1939

UNITED STATES SENATE,
TEMPORARY NATIONAL ECONOMIC COMMITTEE,
Washington, D. C.

The committee met at 10:30 a. m., pursuant to adjournment on Friday, October 13, 1939, in Room 357, Senate Office Building, Mr. Joseph J. O'Connell, Jr., Special Assistant to the General Counsel, Department of the Treasury, presiding.

Present: Representatives Sumners (vice chairman) and Williams; Messrs. Davis, Ferguson, O'Connell, and Brackett.

Present also: Representative Mapes (Michigan); Clarence Avildsen and Robert McConnell, representing the Department of Commerce; Quinn Shaughnessy, representing the Securities and Exchange Commission; Willis Ballinger, Director of Studies and Economic Adviser to the Federal Trade Commission; William Kelley, Chief Counsel; William H. England, Assistant Chief Economist; Harry Babcock and George Scannell, attorneys, Federal Trade Commission; W. B. Watson Snyder and F. E. Berquist, Special Assistants to the Attorney General, Department of Justice.

Acting Chairman O'CONNELL. The hearing will please come to order. Mr. Ballinger, are you ready to proceed?

FEDERAL TRADE COMMISSION REPORT ON MARKETING PRACTICES IN THE INDUSTRY

Mr. BALLINGER. Mr. Chairman, the Federal Trade Commission was requested by the committee to prepare a report on marketing practices in the petroleum industry. That report has been prepared and is ready for submission to the committee . We wish to put a witness on to summarize the report and to answer any questions that the committee may desire to be put.

Before requesting that the witness be properly sworn and qualified, the Commission requests that this report be printed in the record in full, but without the exhibits.[1] The exhibits are very voluminous and would put the committee to considerable expense, and the Commission will be very much satisfied if the report is printed in full.

Acting Chairman O'CONNELL. Without exception it is so ordered. Will you give a copy of the report to the reporter, so that it might be printed in full?

(The Federal Trade Commission report referred to was marked "Exhibit No. 1294" and is included in the appendix on p. 9347.)

[1] The exhibits, introduced infra, p. 9143, as "Exhibit No. 1295" are on file with the committee.

Mr. BALLINGER. We ask that Mr. Horton be sworn.

Acting Chairman O'CONNELL. Do you solemnly swear the testimony you are about to give in this proceeding will be the truth, the whole truth, and nothing but the truth so help you God?

Mr. HORTON. I do.

TESTIMONY OF JAMES A. HORTON, CHIEF EXAMINER, FEDERAL TRADE COMMISSION, WASHINGTON, D. C.

Mr. BALLINGER. Will you state your name for the reporter?

Mr. HORTON. James A. Horton, Chief Examiner, Federal Trade Commission.

Mr. BALLINGER. You are a lawyer?

Mr. HORTON. Yes.

Mr. BALLINGER. How many years have you been in the office of chief examiner?

Mr. HORTON. Five years.

Mr. BALLINGER. How long have you been with the Federal Trade Commission?

Mr. HORTON. Since March 1921.

Mr. BALLINGER. What did you do before that, practice law?

Mr. HORTON. I was associated with the Post Office Department in the enforcement of the postal provisions of the Espionage and Trading With the Enemy Act, having charge of that work.

Mr. BALLINGER. Will you state to the committee what is the function of the chief examiner of the Federal Trade Commission, so that the committee may see your special qualifications for preparing this report?

Mr. HORTON. The chief examiner's division, or more properly the Legal Investigational Division, is charged with the investigation of all complaints filed with the Commission.

When a complaint is filed with the Commission alleging a violation of the law over which the Commission has jurisdiction, it is assigned to the chief examiner's division for study and determination as to whether or not the facts so presented warrant the docketing of an application for complaint and thereafter to make a complete investigation of the charges outlined, the preparation of reports covering said investigation and the presentation of the case to the Commission together with the recommendation of the chief examiner as to what action the Commission may take.

Mr. BALLINGER. Your Division has been particularly familiar with marketing practices in the oil industry, I believe.

Mr. HORTON. It has, for an extended period of time.

Mr. BALLINGER. All right, Mr. Horton, will you proceed in your own way to inform the committee about the report.

Mr. HORTON. The Commission desires to present for the consideration of the Temporary National Economic Committee a survey of controversial marketing practices in the petroleum-products industry.

This report was prepared under my direction, Mr. Harry A. Babcock, attorney in charge of the field and investigational work of the headquarters office having direction of the preparation of the report person. Mr. Babcock has had a very extended experience in the

marketing practices of the major oil companies, and he was assisted by various members of the staff.

This report takes up, first, the scope of the survey and then gives a brief history of the Commission's work with the oil industry, covering many investigations which have been made at the direction of the Congress. It then discusses the petroleum and petroleum products industry, the crude production and sale, prices and price factors beyond the crude stage, and also discusses and sets out the various marketing companies. It then takes up the mechanics of distribution in gasoline, fuel oil, lubricants, oils and greases, tires, and motor accessories.

We then go into the question of questionable practices presently operating in the marketing of gasoline, lubricants, fuel oil, tires, and motor accessories, the legality or illegality of which at the present time is rather undetermined.

The subheadings deal with unjustified price differences and discriminations which substantially lessen competition, tend to monopoly, or injure or destroy or prevent competition. It discusses the "split account" differential; preferential or greater discounts allowed to commercial accounts or industrial buyers; price differences based on volume or trade classifications, or both; the matter of secret rebates and sales below cost; leasing service stations at alleged low and inadequate rental; the granting of courtesy or credit-card service to 100-percent stations or accounts only; the use of tying and exclusive dealing contracts; retail price fixing in gasoline; advertising with regard to the grade, quality, utility, and other characteristics of gasoline and lubricants; contracts with tire and motor-accessories manufacturers; pump and tank equipment as leased, sold, or loaned by marketers of gasoline and lubricants; the exchange or intersale of gasoline by the major marketers.

If the Committee please, in order that it may have before it an understanding of the various practices which the Commission desires to present, I would request the privilege of reading from page 34 of the report submitted in order that the various features of the marketing of oil may be presented. That would be page 16 on the mimeographed document. I am reading from the original copy.

QUESTIONABLE PRACTICES IN THE MARKETING OF PETROLEUM PRODUCTS AND MOTOR ACCESSORIES

Mr. HORTON (reading from "Exhibit No. 1294"):

The purposes set forth at the beginning of this report have been served by information emanating from at least five sources, (a) major oil companies themselves, (b) independent oil producers and refiners, (c) wholesalers, (d) retailers, (e) consumers. From such sources the Commission has developed some information by its own investigations, but a great deal and perhaps the principal part has been taken from complaints received and on file, scores of which have come to the Commission through the President's office, from Senators and Representatives in Congress, the Department of Justice, and other departments of the Government. From all of these records and a knowledge of the industry acquired over the years, there is reason to believe that there are currently present in the industry questions and considerations with respect to:

Unjustified price differences and discriminations "which substantially lessen competition, tend to monopoly, or injure or destroy or prevent competition." (Clayton Act, section 2, Robinson-Patman amendment.)

Use of tying and exclusive dealing contracts. (Clayton Act.)

Price fixing in gasoline, lubricants, and fuel oil. (F. T. C. Act.)

Intimidation, coercion, and other oppressive tactics employed by major marketers against wholesalers and retailers.

Misbranding, false and misleading advertising with respect to the grade, quality, and other characteristics of gasoline and lubricants. (F. T. C. Act.)

Discriminatory contracts with tire and motor accessories manufacturers. (Clayton Act.)

Pump and tank equipment as leased, sold, or loaned by marketers of gasoline and lubricants. (Clayton Act, F. T. C. Act.)

INTER-COMPANY SALES

In addition to the complaints which fall into the above roughly defined classifications there are a multiple number of related complaints which raise questions with respect to things that are not easily placed in a definite category. Examples of these are the exchange of gasoline as between major companies, price zoning, retail margins, discriminations accomplished by charging unwarranted rentals or failing to charge adequate rentals for filling stations, electric or gas display signs, or advertising allowances not made available to all customers, black listing, unfair use of credit cards, and refusal to sell.

THE SPLIT ACCOUNT DIFFERENTIAL AND PRICE DISCRIMINATIONS

Mr. HORTON [reading]:

The Commission has received a large number of complaints alleging that major oil companies and other sellers of petroleum products are illegally discriminating in prices, meaning by illegal that the price difference or discrimination is unjustified and is attended with substantial lessening of competition, monopolistic tendency or the injury, prevention, or destruction of competition.

There is a showing that these discriminations are accomplished in several ways.

A so-called "100 percent station" as referred to from time to time in this survey is a retail service station which dispenses only the products of the major company seller and such noncompetitive products and items as the seller from time to time designates. A "split account" is a retail filling station which sells the gasoline and products of more than one company. It is the present practice and it has been the practice at least since code operation under the N. I. R. A. to sell gasoline to the 100 percent station at one-half a cent per gallon cheaper than to the split-account station. It is more than argument to state that the real reason for this differential is to hold out an inducement for retailers to "go" 100 percent and to confine their selling activities to the products of the marketing company. Some of the major oil companies have claimed that there is an actual saving of one-half cent in selling and servicing 100 percent stations and that the discrimination is justified under the provisions of Section 2 of the Clayton Act, as amended (Robinson-Patman Amendment), but they have never presented figures or evidence to substantiate their claims in this respect. The problem, in effect, involves a comprehensive investigation of the industry and the Commission has not had the funds with which to conduct an investigation to determine the facts.

Acting Chairman O'CONNELL. May I ask whether the Federal Trade Commission has ever brought any proceeding against the major oil companies on this particular question?

Mr. HORTON. The Commission has most recently issued its order to cease and desist against the American Oil Co., with which was joined certain distributors in the District of Columbia under the Robinson-Patman Act in which there was a discrimination shown, and the order of the Commission required a cessation of those discriminatory practices.

Acting Chairman O'CONNELL. I am still curious. You say the major oil companies have never presented figures or evidence to sub-

stantiate their claims. Have they ever been asked to by the Federal Trade Commission?

Mr. HORTON. The Commission has not instituted any proceedings against the major oil companies on this question outside of what I have brought to your attention already.

Mr. SHAUGHNESSY. Was a cease and desist order entered before the hearing on this particular practice of the American Oil Co.

Mr. HORTON. No, the Commission's order to cease and desist is issued only after hearing.

Mr. SHAUGHNESSY. So there was a hearing on this particular case?

Mr. HORTON. There was an answer filed admitting the material facts.

Mr. SHAUGHNESSY. And in that case you alleged that the practice constituted a price discrimination against certain filling stations?

Mr. HORTON. The discrimination was with respect to the practices of a company in the city of Washington which was receiving a preferential price from the American Oil Co., and because of this preferential price was selling at a lower price than other retail stations in the city of Washington, being enabled to do so by the discriminatory price which it received from the oil company.

Mr. SHAUGHNESSY. I should think there might have been in issue in that proceeding the discrimination of which you are complaining here, and the major oil company might have had an opportunity in the proceeding to produce evidence that the saving of cost was effected by this method.

Mr. HORTON. The Commission, however, proceeds only against named respondents and in a proceeding of that kind I hardly think it would be good practice for the major companies to present evidence as to whether discrimination was justified or not.

Mr. SHAUGHNESSY. They made no motion to intervene in that proceeding?

Mr. HORTON. Not to my knowledge.

Mr. DAVIS. Mr. Horton, in the statement that some of the major oil companies claimed that this differential was justified, you had reference to statements made generally and in preliminary conferences, and not in formal proceedings, as I understand it.

Mr. HORTON. That is correct.

I may say for your information that the *American Oil case* did not involve the split account differential. I read further from our report (reading from "Exhibit No. 1294"):

One hundred-percent retail distribution for gasoline and lubricants has been and is secured in several ways. Until 1928, or thereabouts, the most successful device employed was the loaning of pump and tank equipment. The loan was accompanied with an agreement that the recipient of the loan would pump only the products of the donor in the loaned equipment. The practical effect of this arrangement was that pump and tank equipment would be loaned to a filling-station operator only by one company and 100 percentism resulted.

Beginning about 1928, the major oil companies, led by one of the larger companies in the Midwest, thought out and put into operation a plan of 100-percent control, which became known as the "lease and agency" plan. The plan was relatively simple. The marketing company leased the retail filling station owner's location for a term of years (generally five) by the execution of a regular real-estate lease. It then, by a separate instrument, appointed the lessor its agent. Since the owner of the station was now the regular agent of the oil company, all of his acts in the operation of the station were subject to direct order by the oil company, and he was directed to sell gasoline and oil products at certain designated prices; to confine his selling activities to

the petroleum products of the lessor, and to other products satisfactory to the lessor.

When this plan had spread over the country, and particularly in the area east of the Mississippi, a marketing situation developed which resulted in strong protest to the Federal Trade Commission and the Department of Justice. The Federal Trade Commission conducted a most extensive investigation and ascertained that a very high percent of all retail outlets for gasoline and petroleum products throughout the country was under the direct control of the major oil companies and that as a result the marketers of lubricants, motor accessories, and in fact all products logically dispensed through filling stations were barred from their natural market. Particularly affected was the Pennsylvania Grade Crude Group. This segment of the industry markets motor oil and greases and individually or collectively they did not maintain any far-flung system of stations similar to the major companies, but were dependent upon wholesalers for distribution. These wholesale distributors found that they were unable to place Pennsylvania Grade lubricants in the filling stations under lease and agency arrangement with the major companies. While the results accomplished by the lease and agency arrangement were exactly the same as those forbidden by Section 3 of the Clayton Act, the Commission was most doubtful that it could successfully attack the situation under existing law. The practical development was that the National Industrial Recovery Act contained provisions for the regulation of the oil industry by the Secretary of the Interior. Even before the Schechter decision, developments to be hereinafter described eliminated the "lease and agency" question.

The major companies attempted 100-percent control of retail stations by two other devices known as "lease and license" and "license." The lease and license plan consisted of a lease of a privately owned retail station to the major company and the licensing of the owner to sell only the products of the new lessee. The license method attempted to accomplish exclusive dealing results by the execution of a questionable licensing arrangement. These devices never were employed to the extent of the lease and agency contract and were more questionable from a legal standpoint, and less effective in practical operation.

In 1935, or thereabouts, two types of legislation did away with the lease and agency arrangement and all similar devices. The first was the enactment by twenty-one states of chain-store-tax laws. Filling stations operated under the lease-and-agency plan or company owned, were ruled to be chain stores, and the prohibitive and progressive chain-store taxes forced the major companies to divest themselves of control as quickly as possible. The second, and, at least to the companies, conclusive stroke was the enactment of the Social Security Law, which, if the arrangement had been continued, made the oil companies responsible, as employers, for every filling-station operator tied up under the several arrangements above described. The necessity extended to company owned and operated stations, for during the period 1928 until 1935, practically all of the major companies purchased desirable sites throughout their marketing areas and erected thereon rather costly and certainly creditable filling stations which they operated themselves; i. e., by paid employees. Single companies invested as much as $40,000,000 in these stations, and it is correct to state that a real competition grew up between the major companies in the matter of acquiring desirable sites and building impressive filling stations. As stated, the enactment of chain-store laws and the Social Security Law required the marketing companies to divest themselves of the legal control of these stations. In most known instances legal title was retained.

Having "lost" the control of the many thousands of stations held under the described arrangement, the companies reverted to the practice of selling to all filling-station operators at an established tank-wagon price, relying for 100-percent control upon the split-account differential, merchandise contracts, and other influences. However, there sprang up a new device now popularly referred to as the Iowa Plan, because it had its inception in the State of Iowa.

The Iowa Plan, in actual operation, preserved the desired 100-percent relationship, at the same time restoring an unqualified relationship of vendor and vendee as between the marketing company and the service-station operator. It is accomplished in two ways. First, with respect to the company-owned stations, the marketing company selected the most promising employee in the station when it was operated as a company owned and controlled station. This individual was told that it was now possible for him to become an independent station operator. He, of course, had little, if any, capital. Inquisitive as to how he could become an independent-station operator, the company informed him that it would sell him the stocks on hand, either on a conditional sales

contract or outright if he had the money, and that it would lease the station to him on a basis which would enable him to carry out a successful enterprise. The arrangement which they had in mind was to lease the station to the operator at a rental which generally was one cent per gallon for each gallon of gasoline pumped at the station. This rental was collected in advance in the sense that it was added to the tank-wagon price at the time of delivery. For example, if the tank-wagon price of gasoline was 15.5 cents the invoice would bill the gasoline to the lessee at 15.5 cents plus 1 cent rental, or a total of 16.5 cents.

The second and less-used method was for the company to lease a station which had become the property of some local bank or investor, at a fixed rental. The lease purchased by the company is generally a rather long-term lease, often ten years. The marketing company re-leases this to some promising and energetic service-station man under exactly the same conditions as the owned station, and rental is collected in the same manner.

It will be noted that under the above-described arrangements, the marketing company undertakes no responsibility for the margin of profit to be secured by the lessee, and it will be noted further that the plan ingeniously relates the amount of rental received to the pumpage—the more pumpage the more rental. Since the marketing company is desirous of both rental and gallonage, the lessee operator is constantly under pressure to increase the pumpage of the station. Assuming that he is energetic, keeps a clean and efficient station, employs adequate help, and does everything calculated to attract the public to his place of business, there is only one gesture which can thereafter be undertaken to increase gallonage and that is to offer attractive or cut prices.

Probably as a carefully considered competitive device, many of the marketing companies in various parts of the country have brought varying degrees of pressure upon the lessee operator to cut prices and increase volume. In some instances, the evidence is clear that agents of the marketing company have gone to the operators and actually produced cut-price signs which they demanded and required be displayed. It is to be remembered that this cut price only narrowed the dealer's margin and was unrelated to the tank-wagon price which he paid. The developments after this are natural. For a short time after the display of cut-rate prices, the volume of the retailer was increased, such increase being drawn from competitive stations. Confronted with cut prices, competitive stations perforce lower their prices, which in turn has the effect of decreasing the temporarily increased volume of the first price cutter, and all competitors in the given area are again on equal basis, except that now each is operating at a reduced margin. Any reduction in price, however, results in a benefit to the consuming public.

There is a further ramification among any group of retailers competitive in a given area who have come to the situation just above described. Remembering that the marketing company is selling to all of its dealers, lessees, and independents (exclusive of split accounts) at the same tank wagon price, and remembering that the lessee is paying an additional one cent rental, it is clear that disregarding in whole or in part the taxes and the overhead of the independent service station operator, such independent operator is in possession of a one-cent advantage in the situation in terms of laid-down cost. Using again the example of a tank wagon price of 15.5 cents and a rental of one cent to lessee operators, it is obvious that granted a 2.2-cent margin between the lowered and cut retail price and the tank wagon price, the independent has now at least a margin of 2.2 cents, whereas the margin available to the lessee is 1.2 cents. Confronted with this situation, the major marketing companies have taken various steps. Sometimes they remit the one-cent rental and for a time permit the lessee operator to operate the station without any charge for rent; sometimes the lease arrangement is changed to a fixed rental, i. e., a small sum per month, substantially lower than the rental which would have to be paid if the one-cent-per-gallon pumpage basis were maintained.

Mr. SHAUGHNESSY. That point brings up a theoretical conflict that has been present throughout the hearing as far as marketing is concerned. We have been told that the service stations have been turned loose, that there are these price wars. We have also been told that competition in the marketing end of the business primarily is a matter of securing dealers, giving dealers additional concessions, helping them out by painting service stations, loaning equipment, and so forth.

Now, why should a company incite a price war and reduce its dealer's margin if the effect is going to be a possible loss to the dealer or a possible loss of gallonage if the price war continues?

Mr. Horton. I would say that because the major company is interested primarily in gallonage.

Mr. Shaughnessy. Primarily in gallonage, but can you get gallonage except by dealers who are inclined to be cooperative and push your product? Don't you lose dealers when you subject them to this constant pressure?

Mr. Horton. There is always that equation involved in the situation; yes, but if by these price wars there is an increased gallonage it very often inures to the benefit of a company which may incite that price war.

Mr. Shaughnessy. I was thinking of it as a matter of long-range management. I am unable to be convinced that a major company can be completely disinterested in the service-station price at any time, because eventually pressure on the service-station price will require them to give concessions to the station which will result in a depression of the tank-wagon price.

Mr. Horton. That results at times; yes.

Mr. Shaughnessy. Would you say that the size of the company makes possible this continuance of this type of competition?

Mr. Horton. Size, I think, is a factor entering into the question, most decidedly.

Mr. Shaughnessy. Would you also say that the policies of the companies have been more or less the same in this respect, or do some companies pursue tactics that others do not?

Mr. Horton. The Commission has observed a uniformity of practice among the major companies in practically all these matters.

Independent operators complain of this gesture on the part of the marketing companies, stating in such connection that it is a discrimination. The charge is technically correct, for, in a last analysis, lessee dealer A is being sold gasoline on the same basis as it is being sold to independent operator B, and operator A is being provided with a $30,000 or $40,000 station free of charge.

Complaint to the Commission and some investigation tend to give credence to the charge that certain large marketing companies deliberately precipitate the margin price wars just described above. It is claimed with considerable truth that the original company-owned stations were rather widely spread throughout the trade area; that they occupied the most desirable and prominent locations on important State highways and at intersections. The operators of these stations being under the Iowa plan were vulnerable to the influence, pressure, and threats of the marketing company and initiated the above-described cycle by posting cut prices throughout the area. It is claimed that 30 or 40 stations advantageously located throughout a large area—perhaps a whole State—can and do depress the margin of price for the whole State. In isolated areas this procedure has been carried out, but generally the Commission is in possession of no convincing proof that any major company has, as a policy, intentionally brought economic ruin upon its own retail dealers.

Returning now to the title of this section, it is here concluded that the split-account differential is an important auxiliary device in the maintenance of 100-percent stations. Indeed, it is most probable that were the differential to be erased, the ratio of nine 100-percent stations to one split-account station would be very materially reduced, if not reversed.

PREFERENTIAL DISCOUNTS ALLOWED COMMERCIAL BUYERS

Mr. Horton (reading from "Exhibit No. 1294"):

The Commission has tabulated upward of fifty complaints which make serious protest with respect to the practice of major oil companies and other sellers

in granting preferential or greater discounts to so-called commercial accounts and industrial buyers and in some cases to wholesale dealers.

Typical of the first type of complaint is the situation where the marketing seller will deliver gasoline into the tank of the farmer, truck operator, or small user at prices which are lower than those charged to the neighborhood service-station operator or retailer. The result is claimed to be and probably is that the retailer's volume is decreased and by reason of such decrease his profits are minimized or are erased entirely. Lest it appear that this practice is confined to major oil companies, it should be here set out that the practice is common to wholesalers and independent marketers; that it is practiced by retailers themselves to the extent that they will "give away" part of their margin to certain preferred customers and accounts, at the same time endeavoring to exact a full margin of profit from the cash buyer and those of the public who visit their stations for gasoline supplies.

The second type of complaint under this heading has to do with situations where the larger selling elements of the industry sell to truck fleet operators, bus lines, and to all types of industry which either operate motor vehicles or in some way have use for large quantities of motor fuel or lubricants. It is the regular practice of practically all marketing companies to sell this type of user at prices lower than those charged to wholesalers. Occasionally, the described large industrial buyer resells some of the gasoline and oil so purchased to their employees at their various plants and factories at cost, as an additional benefit to the employees. The employees rightly consider this advantage as part remuneration for their services. A very limited number have complained that commercial buyers have installed pumps and are selling to the public. The practice necessarily deprives both the local wholesalers and retail-station operators of business and profit.

Again it is to be observed that the recipients of the discriminatory and lower price are not in competition with the recipients of the higher price (except in the few instances where resales are made), and for such reason the situation involves a refined construction of Section 2 of the Clayton Act. Generally, this practice of large sellers going direct to volume accounts while at the same time maintaining wholesale and retail outlets for their commodities and granting to said large accounts a lower price, has been observed not only in this industry but in other industries. The question involved is one broader than this study and no conclusion is ventured here. The attention of the Temporary National Economic Committee is invited to this practice.

PRICE DIFFERENCES BASED ON VOLUME OR TRADE CLASSIFICATIONS

Mr. Horton (reading further):

The practice of the major oil companies and other marketing units of the industry in selling gasoline and lubricating oils at different prices based on volume purchases as well as arbitrarily classifying trade as to function, has caused the Commission to receive several specific complaints alleging such practices to be unfair price discriminations. To determine the justification of such complaints entails considerable investigation and study on the part of the Commission as to whether or not such price differentials make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are sold or delivered. As to the price differentials based on trade classifications, it must be determined whether or not such trade classifications are arbitrary or true classifications based on functional differences. Furthermore, for any such discrimination to be illegal, it must necessarily lessen competition, tend toward monopoly, or injure, destroy, or prevent competition.

It is claimed to the Commission that such quantity sales by the major oil companies are not only unjustifiable under Section 2 of the Clayton Act, but are indefensible from the standpoint of distribution alone, the claim being that major oil companies engaged in production, manufacture, transportation, and distribution absorb this loss in the distributing end to obtain increased gallonage and correspondingly greater profits in the production end of the business. Any merit in the claim is inherent in the question as to whether or not prices are fixed to competitors at the cost stage. For example, if the complainant is a wholesaler, dependent for economic existence on a profit to be made on gasoline purchased from refineries, the determination is on whether this price is fixed and not upon whether the major oil company is or is not conducting its marketing operations at a loss.

Investigation of one major oil company upon charges that it is granting illegal discriminatory prices under guise of volume discounts and false trade classifications would necessitate the employment of a large number of lawyers, accountants, and investigators. It has not been undertaken to date by the Commission, and of course, neither the time nor the funds have been available for such an investigation for use in this report.

SECRET REBATES

Mr. Horton (reading):

Charges against the major oil companies of granting secret rebates to preferred customers, either directly or indirectly through commission agents, have been received frequently by the Commission. There is a relationship between secret rebates and sub-section (c) above, and the evidence is that every element of the petroleum products marketing industry; i. e., majors, independents, wholesalers, and retailers are granting "insides" or so-called secret rebates to certain vendees.

I had hoped to be able to present to the Commission today certain specific evidence of those facts, but unfortunately the records on which I intended to rely are not prepared, but it may be that if the committee so desires, the Commission could present those data to it some time later.

Many charges of this type have been preliminarily inquired into by the Commission and the universal answer of the "offending" company has been that the preferential price granted has been given in order to meet competition. Unquestionably, all marketing companies and particularly the major companies seek gallonage by offering price advantages to the customers of other companies. Sometimes the customer transfers his business as the result of the offer, but more often, he continues to buy from his then supplier and obtains an equal or nearly equal price from it. The Commission has investigated a number of complaints of this character and as a result of such investigations the inequalities complained of were corrected by the offending companies.

The Commission has in its files complaints from independent wholesalers and retailers, alleging that the major oil companies are in limited areas selling gasoline and lubricating oil at prices which are not only discriminatory but are below the sellers' cost. It is charged that this is done through the company-owned or controlled distributors and service stations.

LEASING OF SERVICE STATIONS AT ALLEGED LOW AND INADEQUATE RENTALS

Mr. Horton (reading):

Under the so-called Iowa Plan, the marketing company's return on each leased service station is dependent upon and commensurate with the gallonage of the station. It can be assumed, however, that the marketing company is not in the real-estate rental business and seeks to show no profit from the rental of its stations as an enterprise apart from oil marketing. The marketing company is engaged in the oil business and it is vitally interested in the volume of business flowing through any leased station. The best information which the Commission has tends to show that the real-estate operations of at least the major companies are carried on at a loss, investment, repairs, taxes, etc., considered. An additional cause of loss on real-estate operations of the companies is that stations have been built or acquired on long-term lease, which, for local reasons, turn out to be unprofitable. A simple example is the situation where the company has invested perhaps $40,000 in the erection of a modern service station on a corner or highway where the volume of traffic warrants and will sustain a station of this type. Local or state authorities change a state road or a traffic artery either away from the station, or at some point traffic is diverted and the $40,000 investment is for the most part lost, because now the pumpage will not produce an adequate return on the investment.

Assuming that this station is leased out, it is clear that a lessee cannot be expected to pay a rental based upon the original capital investment. The marketing company lowers the rental to a basis justified by the actual pumpage and this gesture on its part cannot be characterized as leasing the station on

a low or inadequate rental unless the rather unreasonable view is taken that the rental must be based upon the original capital investment and show a profit thereon.

The rental situation has been hereinbefore described under Chapter VIII, Section 1, subsection (a). It is there pointed out that in price wars between retailers where the lessee is paying one cent rental, the major marketing company's lessee is at a disadvantage and in assisting him it is the sometime practice of the marketing companies either to remit the one cent rental or to change the rental basis from pumpage to a flat monthly rental. There has not been enough time to develop adequately the entire question as to whether or not the principal marketing companies are assuming losses or making profits on their filling station real-estate transactions. Such information as is in the possession of the Commission tends toward a belief that this type of transaction is unprofitable to the marketing companies.

GRANTING OF COURTESY OR CREDIT CARD SERVICE TO 100 PERCENT STATIONS OR ACCOUNTS ONLY

Mr. HORTON (reading):

It is the rather uniform practice of marketing companies, particularly the major companies, to issue to retail consumers and industrial accounts so-called "Courtesy" or "credit" cards. These cards bear the name of the customer and instruct all the company's 100 percent retail station operators to sell the holder his gasoline and oil requirements on credit and to assign the obligation to the issuing company. The issuing company reimburses the filling-station operator at his regular retail price and bills the holder of the card. The customer benefits to the extent of the credit accommodation and convenience granted. The practical benefit to the marketer is that the holder of the card will use the card and confine his purchases to the products of the issuing company.

The arrangement is extended to 100-percent stations only and the holder of the card cannot use the card at a split-account station. Issuers of credit cards attempt to justify this conduct by stating that they cannot be certain that the courtesy or credit cards will be used in connection with a purchase of gasoline of their own brands if the arrangement is extended to stations selling other brands of gasoline. The practice is an added inducement for a station to go 100 percent, and, in a sense, it is a penalty against the split-account station. Generally, it is probably not a good thing for the gasoline-marketing industry. The question as to possible violations of Section 2 of the Clayton Act and the Federal Trade Commission Act requires further study and investigation.

USE OT TYING AND EXCLUSIVE DEALING CONTRACTS

Mr. HORTON (reading):

Considerations which arise under this broad heading are infinite in variety, extending all the way from the "lease and agency" relationship to the straight-sales contracts containing the provision that the vendee will not deal in any competitive petroleum product, or, indeed, any product not satisfactory to the vendor.

The major oil companies, particularly in the past, appear to have had two main objectives in marketing gasoline and lubricants:

(*a*) the confinement of the service-station retailer to its own products and other products satisfactory to it; and

(*b*) the fixing of the spread between the price paid by the retailer and the price to be charged to the public.

More recently, and at least on the Eastern Seaboard, major companies have abandoned the latter, (*b*), but seek to maintain condition (*a*). It is a matter of almost common knowledge that the State chain-store tax laws and Social Security obligations have created a difficult problem for the large oil companies, and they have receded progressively from the plan previously discussed and from the possession or ownership of retail stations operated by themselves in their own names.

Since lease and agency, lease and license contracts, and license contracts have been abandoned for the most part by the principal marketing companies there seems no good reason to discuss them in greater detail than appears ante.

Contracts of lease and re-lease (the Iowa Plan) now in general use are of immediate interest and specimens of these types of contract accompany this report, identified as "Exhibit D."

Under these contracts the station is either leased or released to the retail dealer; the rental to be paid by the lessee is conditioned upon the gallonage pumped at this station or oftentimes is based on a flat rental. Many contracts of this type call for one cent per gallon per month rental. This type contract with the lessee is generally designated a "merchandise contract" and frequently contains the condition that the lessee shall not deal in competitive products or other products unsatisfactory to the lessor. Copies of contracts in the Commission's files show that some of these contracts can be terminated without cause by the lessor on short notice, five and ten days, and this right of quick eviction is alleged to make the lessee responsive to the purposes of the lessor marketer. Reciprocal right of the lessee to cancel on the same notice is not incorporated into some contracts.

In addition to the straight covenant not to deal in competitive products, the dealer is held to exclusive dealing by two other devices introduced into his purchasing contract with the marketing company; i. e., by agreeing to buy "his full requirements," or contracting to buy a monthly or yearly minimum which exceeds any reasonable expectancy of volume to be sold at the station.

A "tying" contract is, broadly speaking, a sale or lease of goods, wares, or merchandise upon the condition, agreement, or understanding that the vendee's or lessee's requirements of other products will be purchased or leased from the vendor or lessor as a condition of the first transaction. The practice creates a situation where the principal marketing companies insist that their customers sell all products made by the company if it is to purchase any of the products, and, of course, the principal product of each company is branded gasoline. No written agreement is used in creating the described arrangement. The Commission has received complaints which make this claim, but generally any charge of the use of "tying" contracts merges into the consideration surrounding 100 percent station operation as practiced by the marketing companies.

Section 3 of the Clayton Act prohibits a lease, sale, or contract for sale, with the agreement that the lessee or purchaser shall not use or deal in the goods of a competitor of the seller or lessor, where the effect may be to substantially lessen competition or tend to create a monopoly.

It is to be noted that every "tying contract" can be phrased in the form of a "requirement contract." A tobacco dealer, for instance, might buy of a large tobacco company his "entire requirement" of tobacco for the year. This would necessarily prevent his dealing in the tobacco of competitors. Or a shoe manufacturer might agree to lease his "entire requirement" of shoe machinery from a machinery company, giving them the right to retake any machine if he took part of his "requirement" from a competitor.

Moreover, there is a real difference between "requirement contracts" and ordinary contracts for sale. If a manufacturer contracts to buy 5,000 gallons of oil from the Standard Oil Company during the coming year, he is at liberty to buy any quantity he pleases from competitors. But if he contracts his "entire requirement" from the Standard, he impliedly agrees to buy none from competitors. In addition to the affirmative covenant to buy a certain quantity from the Standard there is an implied negative covenant not to buy from competitors. This negative covenant is within the prohibition of Section 3 of the Clayton Act if the effect may be to substantially lessen competition or tend to create a monopoly.

It is necessary to inquire, therefore, whether the effect of such contracts may be to substantially lessen competition or tend toward monopoly. This cannot safely be left to a pure question of fact to be determined anew with respect to each controversy. The size of the corporation using the contract, and its general monopolistic intent, are, it is true, important questions to consider before an answer can be given in a particular case. But to a considerable degree, it is a question of law whether a given type of contract tends to restraint or monopoly. Certain types of "tying contracts" inherently impose artificial restraints on the purchaser so severe and so devoid of justification from the point of view of productive and distributive efficiency that they should be condemned whether they be used by a large or small manufacturer. In others the element of artificial restraint might be so slight, and the business justification so clear, that they could be approved, regardless of the character of the parties.

There is a presumption of unlawful restraint arising from an "exclusive" contract. Every "exclusive" contract has some tendency to impose restraint

on the purchaser. Some such contracts have an inherent tendency to restrain trade and are unlawful per se, regardless of the seller's size and general monopolistic intent. Is the primary purpose of such contracts to secure legitimate economic advantages or is the main purpose to create artificial diversion of trade? If such contracts are merely arrangements reasonably necessary to secure to the parties legitimate economic advantages other than the artificial diversion of customers from the seller's competitors, such fact should be considered in determining the legality of the contract. Where the producers are few and powerful, and are engaged in other respects in an attempt to monopolize the market, there is a strong probability that artificial restraint is the main purpose.

Mr. SHAUGHNESSY. You say, "Where the producers are few and powerful. * * * There is a strong probability that artificial restraint is the main purpose." I assume that that sentence is predicated on the theory that most, if not all, producers use contracts of this character.

Mr. HORTON. Many of them do; yes.

Mr. SHAUGHNESSY. Would you say the policies of the companies with respect to using contracts of this character is substantially uniform?

Mr. HORTON. I would answer that by "yes."

(The Vice Chairman assumed the chair.)

The VICE CHAIRMAN. Do you prefer to conclude your statement before we ask questions, or do you like to be interrupted by questions?

Mr. HORTON. Whichever it meets the pleasure of the committee to do. I am willing to accede to their desires.

The VICE CHAIRMAN. It may be just as well to conclude your statement.

Mr. HORTON. Thank you.

RETAIL PRICE FIXING IN GASOLINE

Mr. HORTON (reading):

It is a matter of common knowledge and report that all marketing companies maintain a fixed differential for premium or high-test gasoline. Most premium, or high-test, gasolines are manufactured by a patented process which makes use of tetraethyl lead, the patents being owned and licensed by the Ethyl Corporation. A few high-test brands are manufactured without the use of the ethyl patents. A fixed differential of two cents per gallon above regular gasoline is provided for in the licensing arrangements between the owner of ethyl gasoline patents and its licensees. Other high-test brands maintain the same differential. The Department of Justice, however, has instituted a court proceeding which challenges the legality of this licensing plan.

Complaints alleging price fixing in the industry at all levels before and including the tank-wagon price have been referred by the Commission to the Department of Justice for its consideration.

Subject to what has been discussed hereinbefore under rebates, price discriminations and split account differentials, the retail marketers purchase their gasoline and other petroleum products at prices which are very similar if not uniform. Charges of illegal agreements between retailers seeking to secure for themselves a definite and fixed margin between tank-wagon price and the retail price are generally found to be collateral with controlled margins as influenced or brought about by direct requirements of the large marketing companies. Since this relation exists, a sketch history of controlled margins of profit to the retailer and present-day trends with respect to this factor here follows.

When the lease and agency arrangement became the most popular and extensively used method of station control, the marketing company assumed responsibility for the spread between the tank-wagon price and the retail price, and so far as stations controlled under the lease and agency plan and company-owned stations, the task was not difficult. It was only when sales were made to inde-

pendent retailers that the task of controlling the margin became difficult. Independent retailers buying at the tank-wagon price were in a position to attract gallonage by quoting a price lower than the price posted by the marketing companies in their controlled stations. This condition usually continued to a point where the gallonage of some marketing company was affected and such company elected to lower its retail price to meet the competition. When this was done, other marketing companies operating in the area followed and the net result was a reduction of the consumer price; a lowered margin or spread to the independent retailer and sometimes a cut in the tank wagon or wholesale price. The described type of price war was local in character, sporadically timed, relatively short-lived, and in the last analysis evidenced punitive conduct on the part of large marketers rather than true price competition. As soon as the price cutters were sufficiently "disciplined" former prices were restored.

At the time of this type of lease and agency and company-owned control, the Commission received numerous complaints alleging that the large companies were destroying independent competition by lowering the margin in their owned and controlled stations to the point near the tank-wagon price; at the same time holding the tank-wagon price rigid all along the line, the independent being in a position where he had to buy his gasoline at the established tank-wagon price and sell at a very small margin in competition with his supplier operating through owned or controlled stations.

Since the Iowa Plan came into operation about 1936, the type of complaint most often received by the Commission is that the margin of profit accruing to the retailer is not sufficient to accord him a living or a fair return upon his investment and enterprise. As hereinbefore appears, retail dealers and groups of retailers have made complaint that marketing-company control, as it presently exists, seeks to lower or force down the gross margin of profit between the tank-wagon price and the retail price to the benefit of the marketing companies. There is a showing that retail dealers in some trade areas have dealt with this—as they view it—disregard for their profits and economic well-being by agreeing upon a gross margin or spread and fixing the same in an amount satisfactory to them. Since tank-wagon prices are in the main uniform as between the several marketing companies, this practice results in identical retail prices secured by the parties to the undertaking.

The Commission observes a uniformity of conduct on the part of all major companies with respect to prices, methods of selling, and, indeed, nearly every phase of trade conduct.

The Commission has in its files several types of complaints received from consumers of fuel oil and those interested in fuel-oil marketing.

Complaints which allege intimidation, coercion, or other oppressive tactics employed by large marketers against retailers have been received. They take the form of claims that retail leases have been arbitrarily cancelled without reason, petroleum supplies have been refused, harmful business conduct has been dictated to lessee retailers and independent retailers. Complaints of this character are herewith identified as Exhibit C.

ADVERTISING

Mr. Horton (reading):

Claims for the quality, utility, greater mileage, etc., of branded gasoline and lubricants appear in all advertising media. Frequent complaints are made that these claims and representations are in whole or in part false. The Commission has investigated complaints of this character and has secured a number of stipulations and issued several cease and desist orders against such practices. Those are contained in Exhibit E,[1] submitted to the Committee.

CONTRACTS WITH MOTOR ACCESSORIES MANUFACTURERS

Mr. Horton (reading):

The Commission has information that almost every large oil company has contracts with manufacturers of tires, batteries, automobile lamps, and other accessories.

Preferential treatment of the major marketing companies by tire companies and others is being dealt with by formal procedure of the Commission and by investigation.

[1] Of "Exhibit No. 1295," on file with the committe.

PUMP AND TANK EQUIPMENT AS LEASED, SOLD, OR LOANED BY MARKETERS

Mr. HORTON (reading):

In *Federal Trade Commission* vs. *Sinclair Refining Company et al.*, 261 U. S. 463, decided in 1923, the Commission, in substance, charged that it was an unfair method of competition for a large marketer of gasoline to loan or lease pump and tank equipment to retail dealers, upon the condition or agreement that the dealer would not use the equipment for distributing the products of competitors. The Supreme Court, in passing on the case, stated that the practice did not restrain the commerce involved in an undue manner and that it did not constitute unfair competition within the meaning of the Federal Trade Commission Act or under the provisions of the Clayton Act. Since this ruling all marketing companies have made use of the decision in divers ways. At the present time some of the major companies are allegedly selling pump and tank equipment at preferential prices made possible by special contracts with the equipment manufacturers; some allegedly are loaning the equipment outright and still others have made arrangements whereby dealer customers allegedly can purchase from the manufacturer at what seem to be preferential prices.

Two types or phases of competition are involved: First, pump- and tank-equipment manufacturers and their wholesale dealers who seek business from retail gasoline distributors are alleged to be injured by discriminatory advantages given to purchasers by or through the oil company. Second, the provision of free equipment or equipment at favored prices by large companies in conjunction with the sale of gasoline and other petroleum products affects the competition between rival oil marketers. Not only is pump and tank equipment involved, but also service station and shop equipment such as lifts, grease guns, air compressors, electric signs, etc.

It is obvious that the principal marketing companies are not particularly interested in developing a business on these types of commodities. They are essentially engaged in the sale of petroleum products and it is only to further the sale of these products that they are interested in the sale or loaning of equipment. The information is that when equipment is sold to the retailer at a favored price, or when it is loaned to him, there is alleged to be definite understanding—usually oral—that the recipient will remain or become a customer for the petroleum products of the marketing company.

Among the objectors to the practice are wholesalers engaged in selling equipment as an independent project; i. e., independent of the sale of oil products. In analyzing the subject, it is obvious that manufacturers of pump and tank equipment and of other retail station equipment and the wholesalers who sell their products are at a disadvantage in meeting the described competition.

In connection with the question of equipment as loaned or sold by the principal marketing companies, the following phases require further study and consideration:

(*a*) The practice of selling equipment and relating the sale to gallonage; i. e., payment to be made at a stipulated rate per gallon or any similar arrangement;

(*b*) Marketing companies' interest in, contract with, or ownership of manufacturers of pump, tank, greasing, and other equipment;

(*c*) Price discrimination as allegedly practiced by the equipment manufacturing companies and the large petroleum products marketers.

I may say for the benefit of the committee that those inquiries are now going on and investigations are being made of the practices of certain of the marketing companies and the pump and equipment manufacturers to determine if there is illegal price discrimination being carried on.

Copies of letters of complaint received by the Commission with respect to the subject matter of this section are herewith identified as "Exhibit C, pages 242 to 260."

EXCHANGE OR INTERSALE OF GASOLINE BY MAJOR MARKETERS

Mr. HORTON (reading):

Sales figures assembled by the Department of Justice and admission by major marketing companies establish that there is an extensive exchange of gasoline

between them. According to the Commission's information, gasoline so exchanged is not usually processed further by either party to the exchange and is sold under the brand names of the respective marketing companies; i. e., if the A Company exchanges gasoline with the B Company, the A Company will market the gasoline received from the B Company under A Company's trade name; the B Company will market gasoline received from the A Company under the B Company's trade name.

The exchange account is kept in barrels of gasoline and not in collars. If adjustment is necessary at the end of any stated period, it is made on the basis of current prices. With respect to the practice as a factor in the retail marketing of gasoline, two considerations arise. First, with respect to advertising, and second, with respect to the practice as it extends the range of selling activity of each company.

This report has already made some reference to the extensive advertising done by all the major marketing companies; the creation of customer demand, or so-called consumer acceptance, for the branded products of the several companies—Esso, Fire Chief, Conoco, Good Gulf, Sunoco, H–C, Amoco, Super Shell, Texaco, and others. The customer who prefers and regularly purchases one or another of these branded products believes that the product possesses certain qualities, characteristics or merit not found in competing brands. Therefore, he purchases his gasoline requirements from the company of his choice in the belief that he is obtaining a product manufactured by that company. The practice just described defeats at least the last referred to assumption of the customer; namely, that the gasoline is manufactured by a particular company and contains all the characteristic qualities set forth in that company's advertising.

It is the understanding of the Commission that the Department of Justice intends to provide the Temporary National Economic Committee with certain observations and conclusions with respect to what this practice means in terms of production control.

Copies of complaints with respect to the above-described practice accompany this report, identified as "Exhibit C, pages 261 to 266."

CONCLUSIONS OF THE FEDERAL TRADE COMMISSION

Mr. HORTON (reading):

The data presented herewith constitute a survey of the character of questionable and perhaps illegal marketing practices, which allegedly permeate the entire retail marketing structure of the petroleum industry. It is quite apparent that a proper solution of the various problems presented herewith cannot be made until a thorough and complete investigation has been made of the marketing practices in this industry, with particular relation to the marketing practices of the major oil companies. The report itself is illustrative of the fact that complaints have been lodged against every large marketer, group of marketers, and some retail associations. Some of these matters (those which appear most serious or oppressive) have been investigated by the Commission and corrective action taken in a number of instances. Other complaints have been referred to the Department of Justice. The Commission has been unable to undertake a general investigation of the various practices for the reason that it has not had an appropriation sufficient to enable it to conduct such a comprehensive investigation and at the same time carry on the duties imposed upon it by law.

Mr. BALLINGER. Mr. Chairman, before the witness is questioned, I want to make a motion that the exhibits which are not to be printed in the record may be filed with the committee. We have asked that the report itself be printed, but ask that the exhibits be not printed since they are very voluminous and would burden the record, but we would like to file the exhibits with the committee.

The VICE CHAIRMAN. Would it be a better suggestion that the exhibits be filed for the consideration of the committee and if the committee decide some part of them should be printed later, it may be done?

Mr. BALLINGER. I think that is much better.

Mr. DAVIS. In other words, I think it would be proper to file with the committee all of the numerous exhibits which are identified in the prepared statement.

The VICE CHAIRMAN. If there is no objection, that procedure may be followed.

(The exhibits referred to were marked "Exhibit No. 1295" and are on file with the Committee.)

COMPETITIVE MARKETING PRACTICES

The VICE CHAIRMAN. I would like to ask you one or two questions: Mr. Horton, have you explained to the committee—unfortunately I wasn't here—whether or not your designation of marketing companies included the integrated companies that market their own products?

Mr. HORTON. Yes.

The VICE CHAIRMAN. To what degree are the products of producers of oil and gasoline, and so forth, sold by concerns other than themselves, or one of their controlled organizations?

Mr. HORTON. All companies, all major marketing companies, sell, of course, their branded gasoline, which is distributed——

The VICE CHAIRMAN (interposing). I don't believe you got my question. What percentage of the products of these companies is sold by agencies other than themselves in the first instance?

Mr. HORTON. Mr. Chairman, I don't believe we have the figures covering that.

The VICE CHAIRMAN. Let me put it this way: Are there any large entirely independent distributors of the products of the oil companies?

Mr. HORTON. There are some large independent distributors, yes, who purchase their requirements from the major marketing companies.

The VICE CHAIRMAN. Do they receive any concessions?

Mr. HORTON. That is also a question, Mr. Chairman, I think which must be determined by a broader investigation.

The VICE CHAIRMAN. How long would it take to bore into that a little bit and find out?

Mr. HORTON. Mr. Chairman, if I may extend my remarks slightly, I believe the whole question of marketing of gasoline is a question surrounded with a very great public interest.

The VICE CHAIRMAN. We all agree on that.

Mr. HORTON. The complaints which we have received are becoming so heavy that I personally feel that the time is coming soon when we must take some action with respect to this whole marketing problem. As I say, I feel, personally, that in order to bring about a clarification of all the issues in the marketing of petroleum products, a broad, comprehensive investigation——

The VICE CHAIRMAN (interposing). We understand you want an investigation made, but I am trying to find out what you can tell us now. We understand that is your general view.

Let me ask you this question: These practices to which you refer, do they grow out of competition among the big integrated companies, or do they indicate a disposition, in your judgment—and I think it would be proper to ask for your judgment—to put the independent distributor out of business?

Mr. Horton. I would answer that question by saying that in view of the fact that the major marketing company is naturally and primarily interested in gallonage, that these practices flow from that desire of the marketers to increase their gallonage in every manner possible.

The Vice Chairman. I know they want to sell all they can, but that isn't what I asked you. I asked you whether these practices grow out of competition among these concerns, or sort of a concerted purpose to put the independent distributor out of business, if you have an opinion, and I think you are sufficiently familiar with the whole thing to express an opinion on that.

Mr. Horton. Do I understand by your use of the term "independent distributor" that you mean the wholesale marketing distributor?

The Vice Chairman. No; I mean that fellow to whose station you go to get some gasoline, the retailer.

Mr. Horton. I wouldn't say that it is desired to put the independent retailer out of business; although the Commission has received numerous complaints to that effect.

The Vice Chairman. You think then it is competition among the companies trying to get as much gallonage as they can for themselves?

Mr. Horton. Exactly. The independent retailer suffers in that picture.

The Vice Chairman. Are there any questions?

Mr. Avildsen. Do you think there is any concerted action among the major companies to put the independent refiner out of business?

Mr. Horton. That phase of the question has not received my consideration because that was primarily handled by the Department of Justice.

Mr. Davis. With respect to the question propounded by the vice chairman of the committee, are you prepared to state that the studies which have been made by the Federal Trade Commission and its staff indicate that a very large part at least of the distribution is made by the major oil companies through their authorized wholesale distributors?

Mr. Horton. That is true, and it seems to be the plan and desire of the major marketing companies to distribute their products through their controlled or owned outlets.

The Vice Chairman. Now may I ask a question. It is their desire to control distribution through their controlled outlets, and you are of the opinion that that disposition is in order to acquire gallonage as distinguished from the control of the retail distribution?

Mr. Horton. Well, that is the method by which they would obtain retail control, by insisting on an extension of the gallonage requirements.

The Vice Chairman. Then it would be competition among themselves, wouldn't it?

Mr. Horton. There would be competition in the sale and distribution of gasoline; yes.

The Vice Chairman. How in your judgment could these companies have access to the market on the basis of equality of opportunity among themselves without controlling their respective agencies of retail distribution?

Mr. HORTON. How could that be done?

The VICE CHAIRMAN. Yes.

Mr. HORTON. Possibly by eliminating the plan of a marketing company owning or controlling its retail outlets.

The VICE CHAIRMAN. That is a very definite answer. Are there any further questions?

Representative WILLIAMS. There is a large part of this gasoline, is there not, that is distributed by the integrated companies through the regular wholesale jobbers?

Mr. HORTON. I so understand; yes. There is some; I don't know the exact percentage.

Representative WILLIAMS. It seems to me that we have had evidence here that there is a very substantial part of it distributed or disposed of in that manner. Have you had any complaint from those people about discrimination?

Mr. HORTON. Yes; we have had.

Representative WILLIAMS. You have had complaints of the jobbers not having received, I will say, fair treatment on the part of the individual companies from which they buy?

Mr. HORTON. Yes; the Commission has received such complaints.

The VICE CHAIRMAN. Is that complaint that they give advantage to a competitor engaged in wholesale distribution, as distinguished from complaint as to the disadvantages under which these wholesale distributors generally operate?

Mr. HORTON. Complaints of that character have been received by the Commission, exactly.

The VICE CHAIRMAN. Which type of complaint?

Mr. HORTON. Alleging preferential treatment on the part of the major companies of one wholesaler as against another.

Representative WILLIAMS. Have you any evidence there of any kind that indicates any substantial quantity of gasoline that is exchanged between different companies and sold under a different brand from what it actually is?

Mr. HORTON. We do not have any figures showing the amount of gasoline that has been interchanged. I understand that the Department of Justice has some such figures. Am I correct about that?

Mr. SNYDER. You are right.

Representative WILLIAMS. I understand that you have had a complaint——

Mr. HORTON (interposing). Yes.

Representative WILLIAMS. And the question is whether or not there is any substantial amount of that kind of business going on. It seems to me that that is a very serious thing.

Mr. SNYDER. In tables 34, 35, and 36 of appendix I of Part 14-A are included the tabulations of the answers obtained by the Department of Justice from the companies on the question of gasoline exchanges.[1]

Representatives WILLIAMS. Does it indicate anything about the amount?

Mr. SNYDER. The quantities are given here. The quantities are small as compared with the total sales of each of the companies.

Representative WILLIAMS. Have you anything there to indicate, for instance, over a period of a year, the amount involved?

[1] Pp. 7807–7810.

Mr. Snyder. In 1935——

Mr. Berquist (interposing). 23,361,000 barrels, of 42 gallons, were received by the 19 major companies.

The Vice Chairman. That wouldn't mean anything, would it, unless you know what proportion of the distribution it was.

Representative Williams. Does that mean they received that amount of gas from some other company and sold it as theirs?

Mr. Berquist. They received it and sold it. Some of that undoubtedly was re-formed, or may have been blended with other gasolines.

Representative Williams. Well, I understood, now, if I am correct in that, the statement of Mr. Horton was that there was very little of that done.

Mr. Horton. I didn't make that statement. I said I had no figures on the actual gallonage which had been transferred.

Representative Williams. I didn't just understand you.

Mr. Avildsen. Mr. Berquist, your questionnaire didn't cover the point of getting the gallonage that was resold under a brand name in exactly the same condition in which it was received from other producers; is that right?

Mr. Snyder. The original questionnaire sent to each of the major oil companies by our department asked them for the amount of gasoline which they had purchased, or which they had received on an exchange basis, and sold under their own brands. They gave us a figure in each instance showing the origin of the gasoline, a statement in each letter which was practically uniform from all the companies was that some of the gasoline was sold without any further treatment whatever, that some of it was re-formed or blended, but they did not give what percentage was re-formed or blended. They avoided giving the comparable data on which you could make such an analysis.[1]

Mr. Berquist. In other instances it was noted that it was purchased on a specification basis, and in some cases it was stated that it was sold as received from the selling company, under their own brand. The data derived from the questionnaire are tabulated in tables 34, 35, and 36 of Appendix I, of Part 14-A.

Representative Williams. I find on page 31 the statement which I referred to a while ago, which is my understanding. Under subsection 7:

> According to the Commission's information, gasoline so exchanged is not usually processed further by either party to the exchange and is sold under the brand names of the respective marketing companies * * *.

That is why I asked the question a while ago if it was not the usual practice for them to resell it without re-forming it or refining it further.

Mr. Horton. To the best of our information it is not usually reprocessed, although there have been statements made before this committee, as I understand it, that certain companies do process the gasoline further after it has been secured from another company.

The Vice Chairman. Are there any further questions, gentlmen? If not, we will have the next witness.

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[1] Photostatic copies of answers to the Committee questionnaire on exchanges of gasoline were admitted to the record on October 23, 1939, as "Exhibit No. 1321." See Hearings, Part 17, appendix, p. 9864.

I understand that the committee desire to recess until 2:15. We, therefore, shall stand in recess until 2:15.

(Whereupon, at 11:55 a. m., a recess was taken until 2:15 p. m. of the same day.)

AFTERNOON SESSION

The hearing was resumed at 2:35 o'clock, upon the expiration of the recess, the vice chairman presiding.

The VICE CHAIRMAN. I believe a quorum of the committee is not present at the moment. Senator O'Mahoney is expected in a very few minutes.

(Senator O'Mahoney assumed the Chair.)

The CHAIRMAN. Mr. Snyder, have you any suggestions? Is this the witness, Mr. Schuh?

STATEMENT OF CARROLL L. BEEDY, ATTORNEY, WASHINGTON, D. C.

Mr. BEEDY. Mr. Chairman, are we now in session?

The CHAIRMAN. The committee has been called to order, I assume.

Mr. BEEDY. I think that is correct.

Mr. Chairman and members of the committee, my name is Carroll L. Beedy. Mr. Thomas Jenks, who appears here with me, and I, are members of the firm of Alvord & Alvord. We appear for Mr. Schuh.

The CHAIRMAN. You mean you are lawyers?

Mr. BEEDY. That is correct. We so hold ourselves out to the public, Senator. We are still studying law, as every good lawyer should.

I wanted to make this statement and then leave it in the lap of the gods for a decision of what is fair and proper. Mr. Schuh was subpenaed at about 10 o'clock Saturday morning in Milwaukee. Before he could bethink himself as to what was the first step to be taken, it was afternoon, and we here are an hour ahead of timepieces there in Milwaukee, so that I take it it was around 2 o'clock, half past 1 to 2, before he bethought himself to contact some lawyer. In the meantime it so happened that he had contacted a personal friend of mine and of Mr. Alvord, who is the senior member of our firm, and our firm had been recommended. He could not then reach us, and he thought it was the best thing to catch an early train and come here himself, which he did, and this morning at about quarter of 10, or near 10, he got in touch with our office.

I have just emerged from the dental surgeon's knife, a rather severe operation, which makes it very difficult for me to talk. I was not in our office when Mr. Schuh came in. I arrived at the office about 12 and for the first time was informed that I would have to look after Mr. Schuh. Our Mr. E. C. Alvord being in New York it was impossible for him to be here.

I say this, and I say it without any attempt to exaggerate, I am not very strong as a result of what I have been through, since the whole mucous membrane of my mouth and throat has been very much disturbed, and I have a mouthful of concrete, it seems to me. I have had, as you will see, no time whatever to confer with my client except three-quarters of an hour or thereabouts while we were lunching and about 10 or 15 minutes, say an hour all together in the office.

I do feel that this matter is of some importance as I get a cursory glimpse of it, and it seems to me that the witness should have advice of counsel.

I am wondering if the committee would entertain my motion for a continuance of at least 3 or 4 days when I am sure I shall regain my strength and be able to appear here, and also inform myself somewhat.

The CHAIRMAN (interposing). Sir, this is not a court proceeding.

Mr. BEEDY. I understand perfectly.

The CHAIRMAN. I think you were once a Member of Congress.

Mr. BEEDY. That is true.

The CHAIRMAN. I suppose you are aware of the fact that witnesses who are called before committees of this kind don't have any right, as it were, to depend upon counsel. This witness has been subpenaed here by this committee. I think he was notified by telephone on Thursday, and the subpena itself was served upon him on Friday. That was Friday the 13th, though I hope no inference is to be drawn from that, but we have had no witness yet called before this committee who deemed it necessary to be represented by counsel in the way that you seem to be proceeding. I am sure the committee is disposed to permit Mr. Schuh to have time to prepare himself, but the facts certainly must be pretty simple.

Mr. BEEDY. My understanding of the situation is this, and what the Senator has said I quite agree with. I have in my hand a copy of the Public Resolution No. 123, Seventy-fifth Congress, which sets forth the powers of committees and rights of witnesses, generally speaking, and section 859 of that act you are undoubtedly familiar with [reading]:

> No testimony given by a witness before either House, or before any committee of either House, or before any joint committee established by a joint or concurrent resolution of the two Houses of Congress, shall be used as evidence in any criminal proceeding in any court against him except in a prosecution for perjury committed in giving such testimony—

and so forth.

Now if any conclusion is to be drawn from the testimony foregoing the appearance of Mr. Schuh as to what transpired at a certain meeting in Kansas City in January last, I would say that it might raise a question at least as to whether something of a very serious nature, if we are to believe all that has been testified to, had occurred. Mr. Schuh, I think the committee will agree with me, ought to have counsel more or less familiar with what occurred at that meeting to advise him as to whether certain questions propounded should be answered by him. Since under this statute there is no immunity from prosecution for any criminal offense given, he would be entitled, as I understand the law in cases which have so held, not to answer on the advice of counsel.

It seemed to me rather a serious matter for Mr. Schuh, who owns and operates a filling station in Milwaukee and has been summoned here personally, a man of very excellent standing among his neighbors and in his business and zealous to maintain his honor and reputation. I could speak more distinctly and perhaps more interestingly if I were not incapacitated, as I have stated, but be that as it may. I hope the committee will indulge me for 3 days until I can talk

further with Mr. Schuh as to the details of what happened in Kansas City and be ready in the event of certain questions to advise him as I consider it proper.

Mr. Chairman, having been in exactly your position, I am not in sympathy with unnecessary requests for delays. I dislike very much to make this request, but I think I am fully justified. I would appreciate it personally very much.

The CHAIRMAN. Of course, the chairman cannot presume to speak for the committee, you realize that, and I should prefer to consult my colleagues here before making any statement. You have made your request.

Mr. BEEDY. That is right.

Mr. COX. Mr. Chairman, the subpena which was served upon Mr. Schuh called for the production of certain documents which I understand are in Washington but delivery of the documents has not yet been made to the committee. In view of that circumstance I am prepared to join in the request of counsel for a continuance in the belief that that delay can be used by the members of the committee's staff to inspect documents called for by the subpena. I would suggest that the continuation be until Wednesday. That would be ample time for us to examine documents which the subpena calls for.

The CHAIRMAN. Let me say that this hearing has been going on for several days longer than we had planned. We were hoping to close it up, and there are several witnesses who have been waiting in hopes that they would be permitted to go back to their businesses. The committee feels that if a continuation is granted until Wednesday that the witness will probably have all the time that he needs for preparation for the presentation of anything that he may care to say and the examination of documents by the committee's staff.

If that is agreeable, therefore, to the members of the committee, the witness may be allowed to stand aside until Wednesday at 10:15.

Mr. BEEDY. We appreciate that very much, Mr. Chairman. I shall be in better shape at that time, I am sure.[1]

The CHAIRMAN. We hope so.

Is there any other witness this afternoon?

Mr. COX. No.

The CHAIRMAN. The schedule of the committee called for the appearance of Mr. Schuh this afternoon and for the appearance of Mr. Ferguson of the Continental Oil Co. and Mr. Pierre La Fleiche, of Wyoming, tomorrow. So the committee will stand in recess until 10:15 tomorrow morning.

(Whereupon, at 2:50 p. m., the committee recessed until 10:15 a. m. Tuesday, October 17, 1939.)

(Testimony on the Petroleum Industry is resumed and concluded in Hearings, Part 17.)

[1] Mr. Schuh's testimony appears in Hearings, Part 17.

APPENDIX

Exhibit No. 1211

Statement Prepared for the Temporary National Economic Committee by Paul E. Hadlick, Secretary and Counsel, National Oil Marketers Association, Washington, D. C.

The independent oil jobber is a typical local American businessman. He contributes something to his local community. The major oil companies denude local communities in a manner not unlike that of the Mohammedan hordes that left nature a desert wherever they conquered.

The major companies individually will admit that the jobber performs a necessary function in the distribution of their products. However, their spokesman, like Mr. Pogue, try to show that the jobber is a parasite and that his functions should be taken over and will be taken over by the integrated oil companies.

The independent oil jobber performs the function of distribution of petroleum products in the local community. A bulk plant, warehouse and trucks are essential to do a wholesaling or jobbing business. Gasoline, kerosene, fuel oils and lubricating oils are received in tank car lots. Other products handled include tractor fuels, greases and in many cases tires and automotive accessories. A few jobbers receive their petroleum products by harbor or river barge and a very few along the East Coast from ocean going tankers. The jobber usually distributes these products to at least one of his own stations and to the stations of dealers he is fortunate enough to have as customers under his own, a group or a refiner's brand. In addition, in rural communities where there is a farm trade, the jobber's trucks will be found delivering petroleum products into the farmer's storage tanks or drums. In the cities, fuel oil is delivered by tank truck to homes and office buildings. There is no question but what this distribution function can be performed more economically by the independent oil jobbers than by the integrated units.

The independent oil jobber has certain natural advantages that enable him to operate more economically than the major oil companies can conduct their bulk plant operations. Being a local man his business is a local institution that carries weight in the community. He has the advantage of direct supervision over his investment and his operations. This is an important item because while employees in large numbers under one roof can be adequately supervised, it is not so in the case of a few employees scattered throughout the various small communities distant from main offices.

Hence the independent jobber does not have the executive and supervisory overhead to absorb in marketing as do the major oil companies. Neither is he burdened with the overhead of auditing and other expenses necessary to major oil company control of its marketing outlets.

The matter of a margin is a relative thing. While the jobber can operate cheaper than the majors, he cannot go on endlessly operating on half what the major oil companies are willing to spend in their marketing operations. We do not claim that every unit in an industry is entitled to a profit or that such units are entitled to an umbrella or ceiling that will assure a profit. But we do contend that it is unfair for the major oil companies to spend in marketing petroleum far and beyond their income from that branch of the business, making up such marketing losses from their profitable operations in other branches of the industry.

The independent jobber desires only a reasonable profit. I may point out here that about twelve years ago, when flush oil pools were coming in in Oklahoma, and the Standard (at that time larger crude oil buyers than they are today) were holding the price of crude oil down, the margin between tank car price and consumer price reached beyond 11¢ per gallon. The profit was an unconscionable one. The independent jobbers were the ones that stepped in and voluntarily reduced their margin by better than 4¢ per gallon by reducing the consumer and dealer

price. And they made these reductions despite fear of retaliation. The policy of price leadership then as now was something to put fear into the hearts of the strongest of independent spirits.

The integrated companies through their control of a portion of the petroleum products from the well to the consumer have thus been able to obtain a price that will net them a certain overall profit. In this way they can whip the independent producer, the independent refiner or the independent jobber according to their own designs.

Costs of marketing by major oil companies wherever revealed have shown figures way in excess of the margin allowed to independent oil jobbers. The investigation in Michigan in 1935 and a previous survey in Cleveland in 1934, as well as some documents to be quoted from later, bear out this point. For several years the major oil companies have been allowing their commission agents as much or more than the margin allowed independent oil jobbers. And in the case of a commission agent the petroleum products are carried on consignment in the tanks of the company so that the agent has none of the normal overhead carried by a jobber.

There are approximately 8,000 bona fide independent oil jobbers east of the Rockies and they handle 50% of the distribution of all petroleum products in that area. Their investments range from $5,000 to $500,000. There are probably several thousand wholesale operators in the oil business classified by the major oil companies as jobbers but controlled by their supplying companies and many of them in metropolitan areas are simply large retailers for such major companies. The oil jobber is not to be confused with the jobbers of other merchandise. The oil jobber is a wholesaler who takes title to the goods he handles; he maintains a place of business which consists of at least three large storage tanks for gasoline, as high as six tanks for fuel oil, many tank trucks, and a warehouse large enough to store motor oils and greases, lubricants, naphthas, tires, tubes and automotive accessories. During the last several years the oil jobber has rapidly become a distributor of automotive accessories in an effort to recoup the losses sustained in his oil business. In addition to operating in this manner he extends credit, handles his advertising and incurs all the other risks of any normal wholesale business.

The people I represent are engaged in marketing, wholesale and to a certain extent retail. They depend for their existence upon making a profit out of these operations alone. Through control features in the production and refining of oil, some legalized by acts of Congress, others illegal, as was disclosed in the recent trials at Madison, these major oil companies are enabled to absorb losses in marketing and yet show an over-all profit on their operations. By doing so they crush out the very existence of the independent marketers.

I will attempt to show you that the major oil companies have made profits in their overall operations and yet lost money in marketing.

Integrated oil companies such as the majors have operated their marketing outlets at a loss for a number of years. This may be hard to understand but it is no doubt their desire to control the entire integrated function from the drilling of the well to the sale of the finished product to the consumer. Once the independent jobber is eliminated you can well imagine that absorption of marketing losses by major oil companies will cease.

The situation today is not unlike that which existed during the period of the Code under the National Industrial Recovery Act. Just a month prior to the Supreme Court decision invalidating of the Recovery Act the so-called Blazer Committee report (*Petroleum Code Survey Committee on Small Enterprises, March 28, 1935, P. A. B. No. 97, 815*) was filed. I would like to quote therefrom as follows:

> Dealers complain, however, that large oil companies are not closing up those stations of their own which they are unable to operate profitably on the margins given to dealers. We consider this a valid and important complaint. Doubtless, enforcement of Rule 6 of Article V (pertaining to use of profits in one branch of the Industry to subsidize losses in another) which we deal with elsewhere, would tend to correct the situation.
>
> Typical of these complaints is a letter written by a consulting engineer who had given financial backing to a relative in the retail gasoline business. After commenting on a recent reduction in the margins to dealers, he writes: "Two new Super-Service Stations are being erected within a stone's throw of my relative's station by companies whose gas he sells, and another chain Super-Service Station is going up nearby. In the community where I live, north of New York, four such stations have been erected within a few months

and the small men are being wrecked. These company stations have so many attendants and such a high investment cost that it is obvious they could not fail to lose money if they were charged on the books for oil and gas at the same price they charge to independent marketers."

Another marketer commenting on the situation writes: "The principal reason for the multiplicity of service stations is that every integrated company feels it must have service stations in every neighborhood of every city of every State. The local representative of the ——— Oil Company told me he would never be satisfied until his company had service stations in every neighborhood in our city giving them a total of 15 or 20 stations. Other integrated companies appear to have the same idea and soon we will have each of them represented by a service station in every neighborhood—if there are enough corners for all of them."

A number of those who sent in complaints call attention to the figures submitted in connection with the arbitration of the service station strike in Cleveland last summer, as published in the National Petroleum News. The exhibits presented by ten large oil companies showed that average costs for marketing through their own service stations had averaged 9.63¢ per gallon of gasoline sold during 1933. If, from these figures, is deducted the entire gross profit made on non-gasoline products (equal to 1.7¢ per gallon of gasoline sold) the net cost of selling the gasoline itself would appear to have been approximately 7.93¢ per gallon. This cost, which includes a proper share of bulk plant and overhead expense, compares with an average combined margin at that time to jobbers and dealers of less than 6¢ per gallon. We believe that these costs are reasonably typical of major company marketing expense. Obviously such uneconomical operations can exist only by virtue of subsidies from other branches of the industry.

In the October, 1937 issue of Fortune Magazine appears what is supposed to be a highly complimentary article on "Gulf Oil," with photographs, maps, and charts to picture the growth of this company.

From the standpoint of the independent jobber and independent refiner, the activities of such a large integrated organization as Gulf are anything but consoling. The article quotes Edgar C. Bothwell, a veteran Gulf production vice-president, as saying, "Refineries, you use them to get rid of your crude."

Further on, the article says:

> In 1935, Gulf's 7,800 miles of pipe charged Gulf's refineries $16,000,000 for delivering to them 50,000,000 barrels of crude. Of this, $6,000,000, a fancy 37 per cent, was profit. * * *
>
> And no wonder, between pipe lines and crude, that Gulf did not much care whether its 8 refineries and its 2,300 filling stations made any money or not. The "locked profits" in crude sufficed to explain Gulf's extraordinary prosperity to almost everyone's satisfaction.

The integrated companies' philosophy for absorbing marketing losses is perhaps best summed up by one of their own economists, Mr. E. DeGolyer. In a prospectus of the Texas Corporation, dated February 5, 1937, page 77, Mr. DeGolyer says:

> While both domestic and foreign marketing operations, considered as departments, have shown losses in each of the years 1930 to 1935, the marketing operations of the corporation's subsidiaries are, in my opinion, as good as or better than average good practice in the industry. Costs of marketing are low, and the marketing departments, both domestic and foreign, have performed well their primary function of providing assured outlet for the products of the corporation's subsidiaries and thus permitting them to operate broadly in the other branches of the oil industry.

Dissipation of profits made in other branches to "squeeze" the independent oil jobber also detracts from the rightful revenue of the Government. If the marketing operation were divorced or not operated at a loss the integrated unit would show an ever greater profit than at present, and upon this would pay a higher tax return.

In a prospectus of the Pure Oil Company, dated August 30, 1937, on file with the Securities and Exchange Commission there appears (p. 10) the following statement:

> Under conditions existing in recent years, marketing operations, considered as a separate and distinct activity without regard to earnings from collateral operations and based upon the acquisition of refined products by the market-

> ing divisions and subsidiaries at no allowance from published wholesale market prices, show substantial losses with the result that the company's consolidated net earnings have been substantially less than they would have been had it been possible for the company to sell its crude oil production as such at posted prices or as refined products at full published wholesale market price.

In the above instance, if the Pure Oil Company had not lost money in marketing they would have had a larger net income upon which to pay taxes and also to pay dividends. Larger dividends would have meant larger income tax payments from the individual stockholders. Then, too, if oil marketing were left to stand on its own, the independent companies and individuals operating therein would quite likely have net profits upon which to pay taxes and to pay dividends.

On March 20, 1938, Mr. Kirkland, attorney for the Standard Oil Company (Indiana) and their officers in the oil conspiracy case (Crim. No. 11,365) before Judge Stone in Federal Court at Madison, Wisconsin, when the question of the Standard's profits had been discussed by Government counsel, argued that: (pp. 12,475–12,476 of Record)

> Then they say, "Oh, well, the enormous income," and that is when the statement was made, or previous to that, about the profits of the Standard of Indiana, taken out of the daily press the other day. It is obvious why that statement was made. Not anybody connected with this case could make a statement of that kind and have any weight.
>
> Your Honor's experience at the bar before you went on the bench, where you represented business corporations and partnerships, taught you that it is not the amount of money you make. It is the percentage it bears to the amount you have invested that shows whether you have a good business. * * *
>
> Well, I don't know, but I venture to say if the truth be known that the profit might be made from transportation, from producing, and from selling the 2,000 other products that the Standard of Indiana makes from a barrel of crude.

The elimination of competition is the aim of the Standard Oil group. It has been the goal of the Standard interests almost since their organization. One of the kindest biographers of the late John D. Rockefeller, Mr. B. F. Winkelman, uses such phrases as "But the jobber, who must go," "Give no one a profit," etc. The explanation was that competition must be stifled if the plans for monopoly were to become complete. Winkelman vainly tries to make out the jobbers as wasteful but the truth comes forth when he says "The distribution situation was fraught with peril as competition loomed in other lands." But it is not to be considered unusual that one who groped for monopolistic control as did the late John D. and his successors in office would consider "competition" in the same category as "waste."

The period of time being covered by Mr. Winkelman in making the above remarks was the period when John D. was selling kerosene abroad to jobbers in many foreign lands. The Nobels were developing the Russian oil fields and were seeking outlets. The foreign jobbers were not averse to buying in a competitive market. So John D. set in motion a plan which almost completely removed the independent jobbers abroad. It was complete control from the well to the consumer in the United States and the world at large that he was after and which he had attained before the dissolution decree in 1911.

Once the independent oil jobber is eliminated you can well imagine that absorption of marketing losses by the major oil companies will cease. Will the consumer then pay for these losses? As I read the Resolution creating this Temporary National Economic Committee it becomes your duty to look into these facts and to recommend legislation that will prevent the elimination of the jobber and the passing of these huge marketing losses, with interest, on to the consumer.

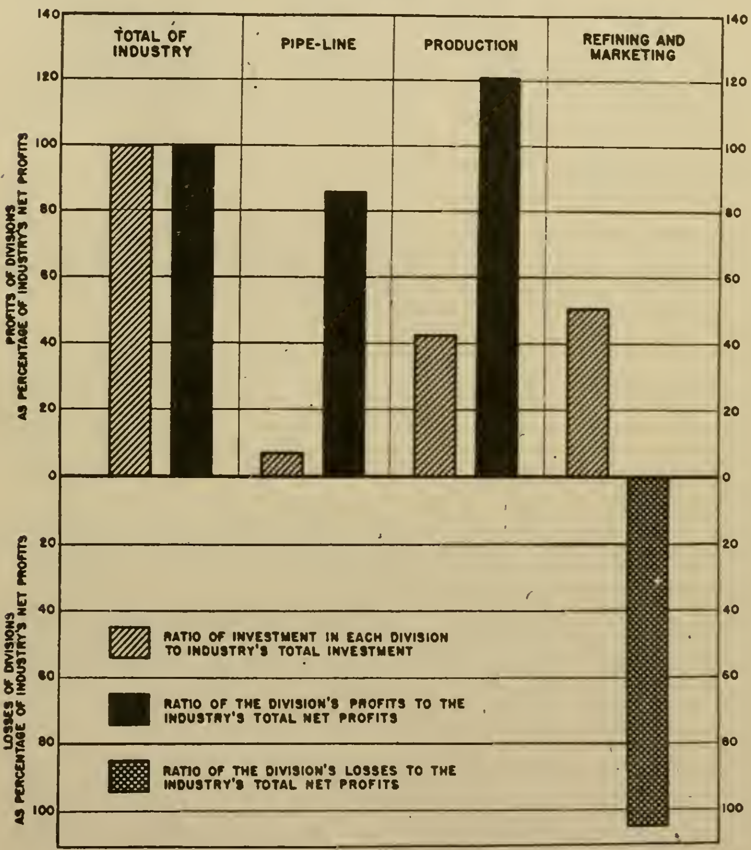
I wish to call your attention to a chart appearing on page 26 of the December issue of World Petroleum, which chart was published in connection with an article by Paul Ryan on "Can Marketing Produce More Profits?". The figures which Mr. Ryan used as the basis for his chart are shown in Exhibit No. 2. This chart shows at first a white space indicating the investment of the whole industry; the next small white space represents the investment in the pipe line division and the large black the portion of profits therefrom. And next a white space showing investment in production and the large profits therefrom. The final white space above the line will be found by itself. This represents the oil industry investment in both refining and marketing. Despite the fact that refining has at times been

profitable you will note an overall tremendous loss in refining and marketing, as shown by the projection of the black lines below the zero level. This chart shows what we are up against—the using of profits from other branches of the oil industry to embarrass the independent oil marketer.

You can readily appreciate that had these companies not taken such tremendous losses in marketing that the income tax returns to the Government from the major oil companies would have been much larger.

EXHIBIT No. 1

COMPARISON OF NET PROFITS AND INVESTMENTS BY MAJOR DIVISIONS OF THE PETROLEUM INDUSTRY 1927-29 AND 1931-34



REPRODUCED FROM "WORLD PETROLEUM" DECEMBER 1937, PAGE 26

There is another angle to this tax problem that is important and that is the evasion of state income taxes by the major oil companies. While the major oil companies operate in all states you will find them paying little or nothing in the way of state income taxes where they are only engaged in marketing. Marketing shows a loss so why should they pay an income tax to the state—and this despite the fact that they make overall profits in their integrated operations. Some time ago an individual at Madison, Wisconsin, dug out the income tax figures on oil

companies for his state and showed that in 1934 the Standard Oil Company of Indiana with gross operating income in Wisconsin of $16,439,006 and a National net profit of $10,439,006 showed a loss of $901,925 on its Wisconsin activities and hence paid no state income tax to the state of Wisconsin.

EXHIBIT No. 2.—*Income of the petroleum industry by division and by years*

Year	Production Gross Profit (Unit $1,000)	Percentage of Industry's Net Profits	Pipe-line Net Income (Unit $1,000)	Percentage of Industry's Net Profits	Total Profit Production & Pipe-line (Unit $1,000)	Percentage of Industry's Net Profits	Net Profit of Industry (Unit $1,000)	Refining & Marketing Profit or Loss (Unit $1,000)	Percentage of Industry's Net Profits
1927	$198, 248	190. 0	$93, 239	89. 3	$291, 687	279. 2	$104, 324	d$187, 163	----------
1928	171, 280	44. 3	117, 206	30. 3	288, 486	74. 6	386, 516	98, 030	25. 3
1929	352, 563	77. 2	142, 216	31. 1	494, 779	108. 2	456, 495	d38, 284	----------
1931	d120, 853	----------	120, 738	----------	d115	----------	d333, 903	d333, 788	----------
1932	128, 766	----------	112, 382	----------	241, 128	----------	d182, 400	d423, 528	----------
1933	62, 490	30. 6	105, 943	51. 9	168, 433	82. 6	204, 000	35, 567	17. 4
1934	287, 857	108. 8	84, 143	31. 9	372, 000	140. 8	264, 000	d108, 000	----------
Average	$154, 342	120. 2	$110, 836	86. 0	$265, 216	206. 2	$128, 434	d$136,744	d105. 2

d means deficit. Data through courtesy of Young Management Corp., New York: "Oil Attains Prosperity." November 28, 1936.
(World Petroleum, December 1937. Page 27)

Purchases of petroleum products are made by jobbers from both major and independent refiners. Some jobbers sell under a brand name of their own but a great many also sell products under the brand names of one of the various independent or major suppliers. The criterion of whether a jobber is independent or not is whether he owns and operates his business.

When the independent jobber started in business he sold under his own brand gasoline which he purchased from independent refiners as an unbranded supply. He built up a local good will for his own brand. This jobber bought at tank car prices, which were competitive, but sold at tank wagon prices of the Standard companies which were the dominant factors in the area in which such jobber distributed. The Standard companies had by 1916 established bulk plants in practically all communities in the United States located on railroads. They included practically all towns of 500 population or over. These bulk plants were within "horse range" of each other.

To illustrate the complete coverage of marketing areas by the Standard companies, I might mention that as of 1932 the Standard Oil Company of New Jersey had in excess of 900 bulk plants in the 10 states of their principal marketing area and the Standard Oil Company of Indiana had in excess of 4,000 bulk plants in the 10 states of their principal marketing area.

Bulk or wholesale gasoline plants are not as numerous as service stations, nor is there nationally such a duplication as in service stations. However, there are areas where too many wholesale plants exist. Such plants, once built, usually remain in operation. When a jobber can no longer continue his refinery source of supply is ready to take it over. The transfer of title to bulk plants is always from weak to strong hands, or from nonintegrated to integrated control. Through operation of wholesale plants in any community the refiners are able to control the market effectively.

Historically, the independent jobbing business started in earnest shortly after the Decree of 1911 dissolving the Standard Oil Trust into thirty-three separate companies. This came about by the fact that the new capital dared invest in independent refining units and new jobbers came into existence to handle the distribution of such independent refiners. Independent competition was further aided by the discoveries of new fields of oil in Oklahoma and the rest of the mid-continent. Independent refiners and jobbers expanded their businesses, each because of the existence and expansion of the other, until the post-war period when, according to the geologists, a shortage of crude became imminent. In the early 20's many independent jobbers were squeezed out of business. A high price at the refinery with a low tank wagon price performed the operation. The jobber was forced to buy at a refinery price dominated by the major oil companies and to sell at a tank wagon price fixed and posted by the Standard Oil Company which controlled the prices in his area.

The picture again changed. The interdependent growth of independent jobbers and independent refiners took a new lease on life beginning in 1923 with the coming of the oil fields of California and a year or so later with Smackover and other big fields in the mid-continent. The post-war actual shortage of crude oil (which almost eliminated the independent jobber from the picture) has been continued to date by artificial means through the use of what has become known as proration.

We might trace the plight of the independent oil jobber from the time of the World War to date. The price of crude reached a peak of $3.50 a barrel in 1920. Gasoline sold as high as 31.9¢ per gallon in the same year. The jobbers of the country at that time had hard sledding and many of them went broke or sold out to the majors for nominal prices. Why? This was just prior to the bringing in of the big flush production in California. Up to that time the oil pools that had been discovered were under control of the majors; no new pools were immediately in sight; and the major oil companies extracted their pound of flesh from the public. One hundred per cent dividends were the common thing on the part of the Standard companies. The late Senator LaFollette was triyng to do something in Congress.

This post-war period 1920 to 1923, is an important one to study because it was a period in which the major oil companies had stifled competition by complete control through pipe lines, the buying up of production and the building of refineries. The independent oil jobber was on the way out and the public were paying for the lack of vigilence in enforcing laws made for their protection. Then the California field came in with its flush production and some of this product began to reach the East coast and the middle west. Independent refiners could again operate and get crude supplies and as competition was restored prices of crude oil and the prices on refined products fell.

For the next ten years the independent oil jobbers enjoyed a reasonable amount of prosperity. New fields in California, Oklahoma, Texas, Louisiana, and New Mexico, brought competition back into the oil business for the time being.

While the independent refiner and jobber again expanded the public benefited by the competition resulting from their activities. The price to the consumer fell from a high of above 31¢ (fifty city average) per gallon without any state or federal taxes to approximately half that amount.

During all this period the major oil companies were working on plans to control the marketing of petroleum once they got control of crude oil production. The main thing was to get the independent jobbers under yearly contracts and to use major brand names in their business. After that, with the control over crude oil, and a little pool buying from the independent refiners the jobber was at their mercy and the squeeze was on.

The circumstances leading up to the transfer of the jobbers from open market buying to contract buying should be recounted. From 1923 on it was the custom for most independent jobbers to sell products under their own brand names. They bought gasoline on an open market on specification. These jobbers were the first to develop dealer business in a modern way.

A policy has always existed among the major oil companies of chastising any market where independent competition became important. In the early days the Standard did not post a retail price. It posted a tank wagon price at which the dealer purchased. By ruse or otherwise the Standard would get a ticket showing a lower price by some company in a territory where it had a bulk plant and it would immediately lower the tank wagon price. With bulk plants everywhere the control of the selling price of jobbers was an easy matter for Standard.

It may be pointed out here that the Standard companies have always posted a tank wagon price at which they are willing to sell dealers. For many years they also posted a service station price. With complete bulk plant coverage and a control of from 20% to 50% of the volume no one could sell at a price higher than the price fixed by Standard. If they sold lower the usual Standard policy was to meet such lower price. When the spread between tank car and tank wagon became unreasonably high the jobber reduced prices. When this spread disappeared or diminished, the jobber, in the nutcracker, has had to absorb the loss or go out of business.

Being hard pressed in a local area the independent jobber would probably ask his independent refiner for a "guaranteed margin" on the local market. That is, protection of a certain amount so that he could stay in business. Failing to get this from an independent refiner the major oil company salesman was on hand offering such a contract. Thus was an independent jobber switched over from an independent refining source of supply to a major source of supply.

The huge advertising program of the major oil companies for their products, involving newspaper, magazine, radio and billboard, enticed another group of

independent jobbers to leave their independent refining sources of supply and go over to a major oil company brand and source.

Again the major oil companies would come in and offer huge loans to independent jobbers to get them to switch over to their brands. In that period, as today, the raising of capital in small amounts was an expensive procedure. Usually these loans were not made with the idea of merely selling the jobber; like a great many farm mortgages, the place was sold when the mortgage was signed, although the mortgagee did not realize it until later.

Then came the use of "Lease and License" and "Lease and Agency" by the Standard and the other major companies. By these methods the major companies leased a filling station at a gallonage or flat rental from a dealer. This was a regular real estate lease which they usually recorded. In turn the company then granted the dealer a license or agency to operate that same station and guaranteed him a definite margin. This embarrassed the independent jobber who had no guaranteed margin. It likewise penalized the independent refiners and lubricating oil compounders who were thus automatically frozen out of any stations taken under Lease.

The jobber who, up to this time, had not gone over to a major or refiner's brand, was faced with gambling on not only the fixation and lowering of his jobber margin by the Standard, but placing himself in the position of guaranteeing to his dealer outlets a definite set margin which might have to come out of his pocket were a price war to take place in his territory.

To sum up, the major companies between 1925 and 1935 carried on a campaign to force jobbers into contracts with them. Their activities over the 10-year period followed several methods of attack:

1. Spasmodic price wars were brought about, jobbers' overall margins were cut considerably; sometimes the price wars caused them to distribute at a loss. At the same time the major companies offered the jobbers in the price war area uniform contracts containing a guarantee of a 2½¢ net margin. The argument was used that the jobber would be protected in event of price wars and that the guarantee clause would bring about a splitting of the losses between the jobber and the major companies. This was the origin of the so-called "split feature" contract. Many a jobber signed up on these contracts since the situation looked rather disastrous to his business. He knew price wars existed, but he was unable to collect proof that the major companies, who were offering him the guaranteed contract, had brought about the price wars. At times price wars were not developed in the open but price-cutting was indulged in. Courtesy cards setting up charge accounts carried by the major companies were distributed by those companies to motorists generally without regard to whether they were customers of their brand or not. At times it was the practice to give these courtesy card customers a discount at the end of the month when they were billed for what they had purchased. The retailer, who was selling a major brand on this charge account system, did not bear the expense of carrying the account. The major oil companies financed the customer 30 days. The independent filling station operator naturally called upon his supplier to finance a like charge account system. The jobber in many cases was unable to do this because his margin of profit was not large enough and he was often unable to borrow money from the banks, even at high rates of interest, to finance service station customers for 30 days.

2. The major companies had all embarked upon national advertising. The billboard, the newspaper, the magazine and the radio were used to advertise these major refiners' brands. Public acceptance was built up by these means. The jobber who had built up his good-will in his own brand in his local area was repeatedly requested by his dealers to supply the nationally advertised brand. He would offer them the brand of an independent refiner but the independent refiner's brand did not have the same amount of advertising and was probably known in a state or two only as compared with the 48 states of Texaco, Shell, Sinclair, etc. Public demand was another argument to the service station operator to take on nationally advertised brands. The service station operator looked to the jobber to supply him with a known brand to replace the independent refiner's of the past 20 years.

3. The crude oil supply of the independent refiners was gradually being tightened. He was unable, because of proration, pipe line control, squeeze of margin, crude oil price, tank car price and other factors, to make a quantity of gasoline necessary to supply his indepdent jobbers who had been selling his gasoline over a several-state area. Gradually, the independent

refiners passed out of the picture and the jobber was faced with the alternative of either closing up and going out of business too or finding a source of supply with the majors. The majors, of course, offered him their contracts. They refused to sell him on any other basis.

4. Major companies over a period of years had built up service stations which they owned in fee. About 1928 each major company conducted a drive for gallonage. Huge budgets were appropriated for the purpose of purchasing filling stations outright. The Standard Oil Company of New York, previous to merging with Vacuum, appropriated $350,000 to buy side-street service stations in Rochester, New York. They purchased the use of sidewalks in front of a hardware store and a corner of a parking lot next to a hamburger stand. In addition to buying service stations, major companies devolved the various "Lease and Agency," "Lease and License," "Commission Agent" and other exclusive dealing forms of contract. Many times the independent dealer has maintained a split station, a pump or two for his own or local jobber's brand and similar equipment for products of other suppliers. The exclusive form of contract forced on the dealer by the major company prohibited the sale of any other supplier's products at that service station.

5. The major oil companies approached service station operators who owned their stations and equipment in fee and proceeded to sign them up on exclusive dealing contracts on condition that the company loan the service station operator money for repairs, new installations and new equipment. These loans were of sizable amounts and were repaid, if at all, on a gallonage basis.

6. The major companies also overhauled the premises and equipment of independent service station operators, gave them new concrete driveways, painted stations inside and out, supplied them with modern electric signs, paid their electric light bills for many months after installation and offered many inducements of this character to become exclusive distributors of major company brands.

All this sent the jobbers scurrying to their sources of supply for guaranteed margins. Even independent refiners, seeing their business going from under them resorted to the practice of guaranteeing margins. Eventually most of the jobbers were thus signed up on contracts bearing a strange familiarity one to another, contracts which guaranteed them a definite margin in their locality under the posted retail price of the Standard. The use of local price wars hastened many jobbers to make up their minds. The margin in the early contracts was fair enough, but with a sliding scale provision based on the prices for gasoline published in trade papers, it remained only for the majors to control the refinery price and the situation was in their hands.

The advent of the petroleum code under N. R. A. gave them their golden opportunity. With much fanfare as to doing something about marketing, they bent their entire efforts to perfecting control of production and refining and when the code didn't work fast enough to suit them they resorted to illegal pool-buying of gasoline as was disclosed in the recent criminal convictions in the oil trials at Madison, Wisconsin.

The major oil companies, operating through the Planning and Coordinating Committee (the code authority for the oil industry under N. R. A.) had the audacity of proposing and obtaining sanction of minimum margins for both dealers and jobbers. The hearings on this momentous question of price-fixing were held in a suite at the Mayflower and only those desired were permitted to participate. Fortunately the price-fixing order never became effective although the Secretary of the Interior on October 16, 1933 signed an order by which it was "declared to be an unfair competitive practice in violation of the terms of both the National Industrial Recovery Act and the Petroleum Code for anyone dealing in petroleum and its products after December 1, 1933, to sell or buy at a price less than the applicable price mentioned therein." (*Final Report of the Marketing Division, Petroleum Administrative Board, issued June 1936, p. 117*)

The provision in that price-fixing order on jobber and dealer margins reads:

> For the purpose of establishing minimum differentials for the test period on gasoline tank car prices laid down at retail outlets, the following shall apply:
>
> On gasoline within the octane range of below 50 to 59.9 inclusive, the total differential shall be not less than 5½ cents per gallon, of which 3 cents per gallon shall be the minimum allowance to the retail dealer;

> On gasoline within the octane range of 60 to 70, inclusive, the total differential shall be not less than 6½ cents per gallon, of which 4 cents per gallon shall be the minimum allowance to the retail dealer.
>
> These minimum differentials shall apply to all sales to consumers at retail outlets.

On the day set for the hearings on the above mentioned order Secretary Ickes was informed that certain interests within the oil industry opposed to price control had prevailed upon the Planning and Coordination Committee to have the hearings postponed. On December 9, 1933, a joint committee of the refiners and producers for and against price control submitted two agreements, the one to control a buying pool and the other to deliver control over margins and the marketing of oil to the refiners. The latter agreement provided:

> In no event shall the minimum gross marketing margin after such determinations (that is, determinations of the dealer margins by the refiners) be less than 1½ times the gross margin allowed under this plan to Undivided Resale Accounts on gasoline

and as to bulk station commission agents the commission

> shall be such an amount as, when expressed in cents per gallon on average monthly sales, and added to the undivided dealer margin, shall not exceed the gross marketing margin determined for distributors, jobbers or wholesalers.

In giving his modified approval of these agreements Secretary Ickes stated that since the agreements might tend to create a monopoly, that he would not allow, he would not hesitate to cancel these agreements upon the slightest evidence of their being abused, and that he would not tolerate any unwarranted increase in the retail prices of gasoline caused by their operation.

On February 1, 1934, Secretary Ickes revoked his price-fixing order of October 16, 1933, and as the modified agreements were never resubmitted to the Administrator with the requisite number of signers for them to become effective, governmental price fixing never existed.

In retrospect it is easy to see what happened. The major oil companies thought the idea of pool-buying and control of jobber and dealer margins to be to their benefit. But they were unwilling to submit to Government control over same. Without the formality required by the National Industrial Recovery Act and without any approval of the Petroleum Administrator, they, secretly and behind closed doors, conspired among themselves to put those agreements into effect. The record in the Madison Oil Trials shows how effective they were in doing so.

In the period from 1933 to date, thousands of jobbers have, as independent entities, gone out of business. The means have been many. Sometimes "squeezed" and forced to sell because of operating losses, lack of cash, etc.; other times purchased by refiners at fair figures because such major refiner wanted to complete a distribution set up in a certain state. At times the jobber has been induced to lease his plant for a term of years and then has been signed up for a year or so as an agent; the trick being that while the lease of the properties was for a term of years the contract of employment was for a shorter period, after which the jobber has been let out by merely lowering his commission for the next following year.

From 1933 to date not only has the margin been reduced but the jobber's costs of doing business have increased. This was officially recognized in 1935 in the so-called Blazer Committee report (Petroleum Code Survey Committee on Small Enterprise, released by the Petroleum Administrative Board March 28, 1935, P. A. B. #97815) where it was said:

> In marketing operations, we find that small jobbers have suffered because of increased labor costs with little or no corresponding increase in margins.

At times there may be a question as to whether a so-called independent jobber is really independent in anything but spirit. Some former jobbers have leased their plants to integrated refiners and operate them as the refiner's agent, receiving goods on consignment. The spirit of that man may be independent but actually he is no longer in control and while the law may classify him as an "independent contractor" for social security and other tax purposes (things which the integrated companies like to avoid), he can no longer be truly classed as an independent oil jobber.

As they dominate the tank wagon markets, the integrated oil companies, through their purchases of gasoline from independent refiners and by their sales to jobbers on contract, have been able to fix and maintain tank car prices in recent years.

It may interest you to know that in the period from March 1, 1935, to March 3, 1936, sixteen major oil companies, all defendants on trial for conspiracy to fix gasoline prices (at Madison, Wisconsin) purchased 24,052 tank cars of refined gasoline from thirty-four independent refiners located in the 5½ counties comprising the East Texas Oil fields. The records of the Federal Tender Board No. 1 at Kilgore, Texas, will prove the above statement. (Also see Exhibits 1032, 1033 and 747, Madison Oil Trial.)

In 1935 the major oil companies instituted what has been styled the Iowa or dealer plan of marketing. The passage of a drastic chain store tax law by Iowa was the immediate impetus to this movement. The plan was to keep control of the retail outlets and yet dispose of legal and tax responsibility. The plan was also an endeavor to set up an individual, properly controlled as to his source of supply and operations, and yet holding him out to the public as an independent merchant. By this plan the majors saved chain store taxes, social security taxes, workmen's compensation and public liability, wages and hours regulations, labor union and other labor difficulties, and utilized a former employee upon which to unload the responsibility. Let the so-called independent dare buy from other than his lessor and a short term cancellation clause in his lease would be taken advantage of by the supplier.

This move has no doubt saved the major oil companies some of their previous losses in the retail end. But as they control the premises and only lease them out they have control of the output. They still retain control of the tank wagon posted price so that a reduction in service station price within the dealer's margin no longer comes out of their share. In fact where leased stations fail to hold up to the major company's estimate of gallonage for that station the evidence indicates that major oil company salesmen have encouraged the lessee dealer operators to reduce their prices. It isn't a strange thing in the oil business for the major oil companies to be generous in cutting the other fellows margin down so long as their profits are not affected.

The testimony in the first Madison Oil case (*United States* v. *Standard Oil Company* (*Indiana*) *et al.*, No. 11365, Criminal) in which the jury brought in a verdict of guilty against 16 major oil companies and 30 of their officers, discloses the method by which the major oil companies illegally conspired to raise the tank car price of gasoline in the Middle West. The plan was to keep the jobber margin at 5½¢, of which 3½¢ went to the dealer and 2¢ to the jobber. Actually the way the refinery price was manipulated the jobbers net margin was less than 2¢ for a long period. But the plan generally was to keep the combined jobber-dealer margin 5½¢ or less above the refinery price.

In the East Coast a similar arrangement was worked out. The New York harbor price for gasoline was regulated by pegging the Gulf Coast price. In addition the majors entered into an illegal marketing agreement which permitted the jobber the same gross of 2¢ and the dealer 4¢.

How has this "squeeze" operated? The pace maker in price for the retail trade and the consumer trade is usually one of the Standard Oil companies. In practically all areas one of the old Standard Oil companies has a volume of from 20% to 50% of the market and with bulk plants in practically every community they have effective control. The control is exercised by the maintenance of the number of bulk plants and service stations in the area as well as by enjoying the greater part of the volume of sales.

From 1911 through the years tank wagon prices have been published by the trade journals after being released by the Standard companies. During the period 1912–1920 the development of the gasoline industry brought about the Standard company operation of service stations and gradually service station prices became posted along with tank wagon prices and were published in the same form as they were years ago in each of the trade journals. During the past few years the publication of service station prices has been discontinued due to the adoption of the Iowa Plan previously discussed.

The fact that the major oil companies have adopted the Iowa plan has not completely cancelled their control over the consumer price. Evidence from the field indicates their interest in forcing the so-called independent dealer to operate his leased station at a lower margin than that previously allowed. And despite increased operating costs the mouthpieces of the majors to the dealers are preaching "smaller margins" as the order of the day.

How difficult it is for anyone of even the other integrated companies to interfere with Standard leadership was indicated last year when Shell tried to raise its middle west market 3/10¢ per gallon and widen the jobber margin but failed (See *National Petroleum News*, August 17, 1938, page 9).

Everyone is interested in lowering prices. The raise inaugurated by Shell, though unsuccessful, was justified if the raise in the tank car price, supported by high crude prices, proration and pool-buying, was justified. Jobbers have no control over refinery or crude oil prices. The refinery market had gone up so that the jobber margin was much below the 2¢ supposedly allowed him by the Standard Oil Company according to their employee Marshall's testimony in the first Madison oil case. If someone besides Standard were able to raise a market from time to time as Shell attempted, the "squeeze" on the independent oil jobber would not be so workable.

There is presented herewith a chart (Exhibit No. 3) showing "Gasoline Prices and Margins, Chicago, 1930–37" combined with "Crude Oil Prices, Oklahoma, 1930–37." This chart will give the Committee some idea of the struggle which the independent oil jobber has in this business. Since the advent of N. R. A. the stable and rising price of crude oil as well as refined products is contrasted with the competitive nature of the wholesale and retail price. These same integrated units that have their "locked profits" in crude oil, refining and transportation, compete in the marketing of petroleum products. Fortified by profits from the former they are able to subsidize their marketing losses. The period prior to N. R. A. shows a competitive market from the well to the consumer that permitted the independent oil jobber to exist.

Just how the independent jobber has had his margin sheared is even more graphically shown in another chart (Exhibit No. 4) presented herewith entitled "Service Station Margins and Jobber Net Margins on 'Regular Gasoline' four selected cities, 1930–37". This is perhaps what Mr. Pogue means when he refers to "the inevitable trend toward narrower margins". Are the independent jobbers to be put out of business because the majors want us put out? How about allowing crude oil to fall to its "economic level"; if that were done the "inevitable trend" referred to by Mr. Pogue would cease.

By domination of the tank car market of refined petroleum products and by control of the wholesale and retail prices therefor it can be seen that the Standard companies exercise the power of fixing the ceiling and pushing up the floor at will. Caught in that squeeze is the independent oil jobber. The floor started rising in 1933 and not long thereafter the ceiling started lowering. Thus the jobber is caught between the upper and the lower millstones.

I desire to say a word about the members of the National Oil Marketers' Association. Questionnaires from our members indicate that none of them have ever, to their knowledge, handled so-called "hot oil." They sell under their own brand names or the brand names of their supplying companies. They are not market demoralizers as the term is used in the industry. Perhaps this is due to the fact that in recent years there has not been sufficient margin to operate on profitably even when selling at the maximum price allowed by the Standard Oil Company. The oil profits of the majors in the past several years have been garnered from production, transportation by pipe lines, barges and ships, and refining.

Price cutting as we know it today has in many cases been of the subsidized variety. I might recommend that you read the testimony in the Michigan investigation to get a good account of how bogus independents are used in the oil industry.

The whole history of the integrated oil companies engaging in marketing has been a continuous series of unfair practices. It is high time the distribution of petroleum products were separated from any domination, influence or control from the producing, manufacturing or transportation branches. Distribution is peculiarly adapted to local operation and when unmolested by integrated units can give better service at no increase in cost and still make a profit.

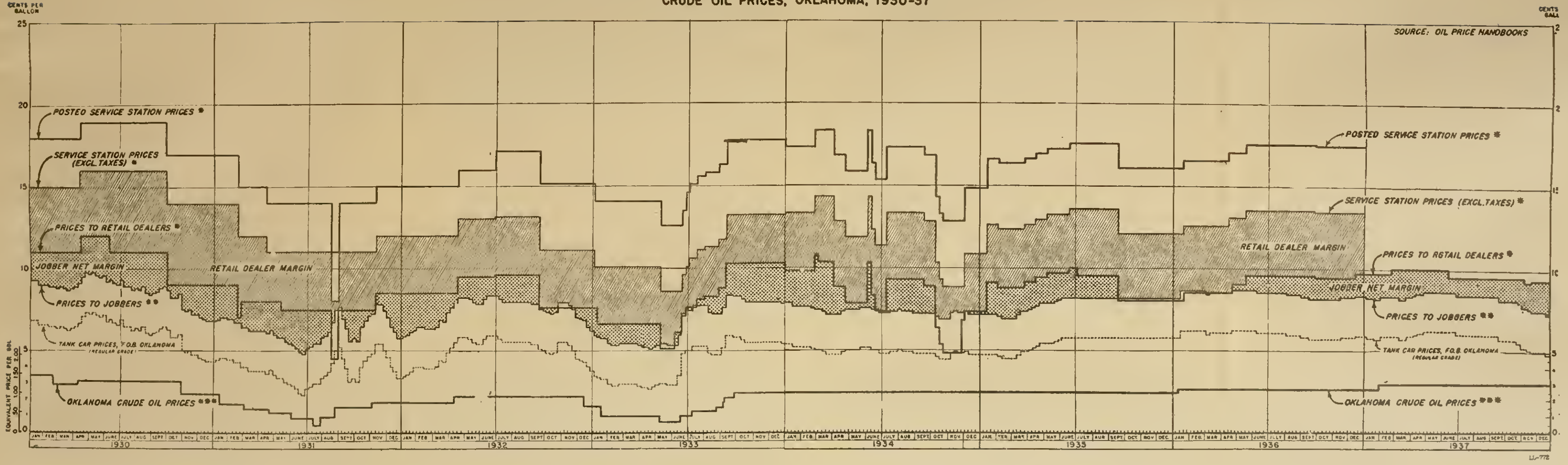
It seems so inconsistent to provide an income tax program devised to bring in revenue and then to permit the integrated units to milk the profitable operations to take care of losses in the marketing branch. Congress abolished the consolidated income tax return to prevent losses of one subsidiary being deducted from the profits of another. Big industry immediately absorbed the subsidiaries (became integrated) into one corporation, made the former subsidiaries departments, and continued to get the same exemption from taxation. It is time to attack the problem from another angle, namely, to actually disintegrate the larger units of business.

Without an examination of the major oil company books it is, of course, impossible to determine the extent of the losses they sustain in marketing. The "ad-

Exhibit No. 3

GASOLINE PRICES AND MARGINS, CHICAGO, 1930-37

CRUDE OIL PRICES, OKLAHOMA, 1930-37



* STANDARD RED CROWN GASOLINE (REGULAR GRADE)

** TANK CAR PRICES AT OKLAHOMA REFINERIES, PLUS FREIGHT TO CHICAGO (APPROX. 2.4 CENTS PER GALLON) - REGULAR GRADE

*** PRICES FOR 36°-36.9° API GRAVITY IN DOLLARS PER BARREL AT OKLAHOMA WELLS, AS POSTED IN 1930 AND 1931 BY PRAIRIE OIL & GAS CO., AND FROM 1932 TO 1937 BY STANOLIND CRUDE OIL PURCHASING CO.

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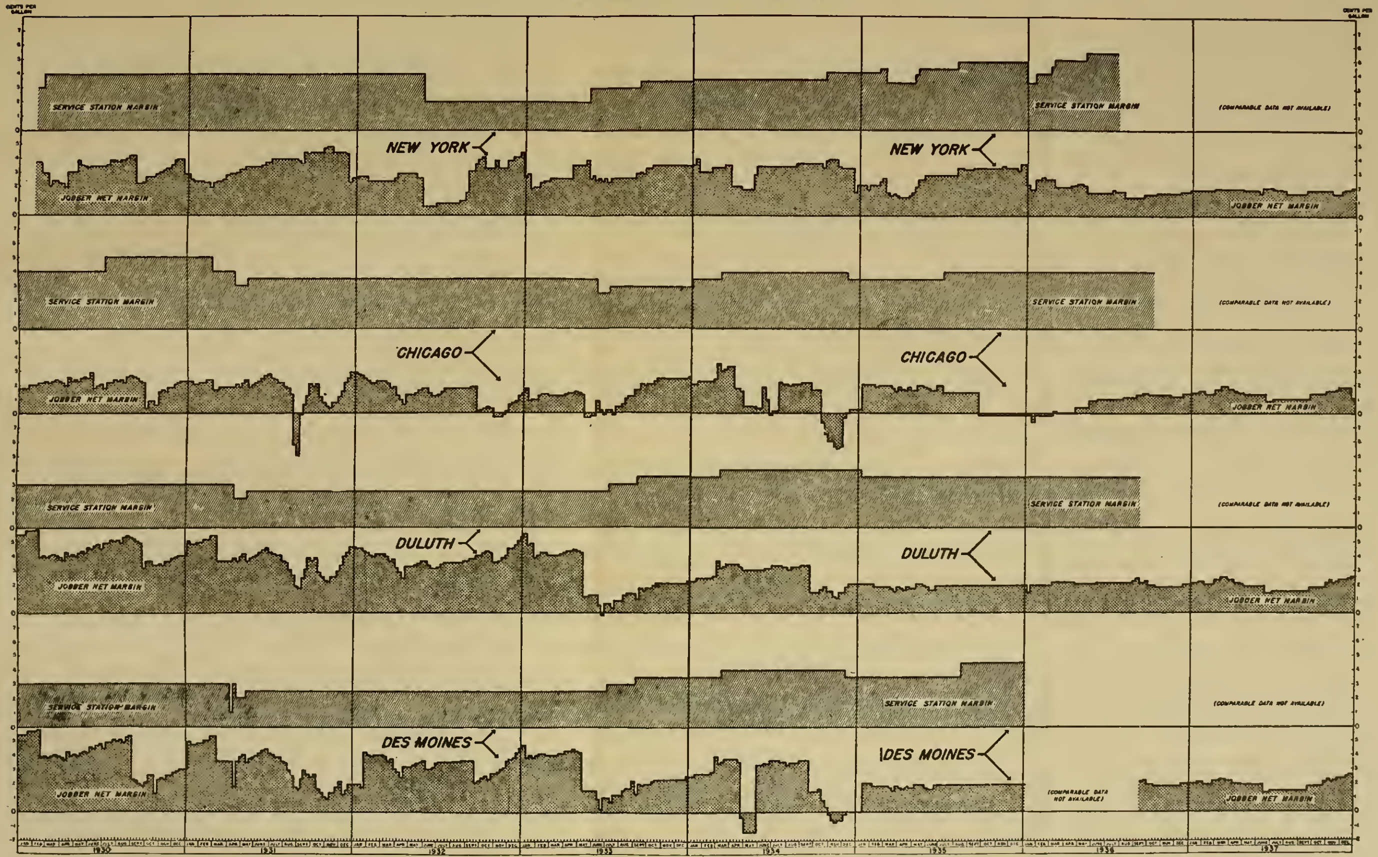
Exhibit No. 4

SERVICE STATION MARGINS AND JOBBER NET MARGINS ON "REGULAR" GASOLINE

FOUR SELECTED CITIES, 1930-1937



SOURCE: OIL PRICE HANDBOOKS

missions against interest" which can be found are those where there was no other way out.

After a long struggle the independent companies succeeded in having two rules placed in the N. R. A. Oil Code designed to make each branch of the oil industry stand on its own. Throughout they were absolutely disregarded by the major integrated oil companies. The Blazer Committee (Petroleum Code Survey Committee on Small Enterprise, released by the Petroleum Administrative Board March 28, 1935, P. A. B. No. 97815) had the following to say about these two rules:

> We have received so many complaints over the failure of Rules 4 and 6 of Article V, which pertain to selling below cost and the subsidizing by integrated companies of unprofitable operations in one branch of the Industry by revenues from another, that we deem it desirable to give special consideration to these complaints.
>
> These rules appear to have constituted the principal attempts in the code to safeguard the position of non-integrated units engaged in only one or two branches of the Industry and to protect them from subsidized, destructive competition.
>
> We find that wide-spread violation of these rules undoubtedly has prevailed and that little attempt appears to have been made either to enforce the rules or, if they are not enforceable, to revise them so as to make them enforceable. As a result we find a wide-spread demand, especially by non-integrated refiners and marketers, for separation or divorcement of one kind or another.

Nothing was done then nor since. The agitation for a correction of this subsidizing of marketing losses still continues.

At this point I should like to have you note carefully that in addition to the Federal Oil Control exercised during N. R. A. the Federal Government has continued through the Connally Act, Interstate Compact, Monthly Forecasts and the Petroleum Conservation Division of the Interior Department to exercise supervision and regulation over the oil industry. The plight of the independent oil jobber has gradually become worse because these measures have fortified the profit accounts of the major oil companies. During this 5½ year period no comprehensive studies have been made on the part of the Federal agencies, administering these laws with reference to the costs, income, profits, etc., of the different branches of the industry with a view to determining to what extent these laws and regulations to which the Government has been a party have been in the public interest.

We recently witnessed the spectacle of the so-called Connally Hot Oil Act being jammed through the Senate without the holding of hearings of any kind. In the first place, the bill was referred to the Senate Finance Committee when more properly it belonged in the Interstate Commerce Committee. By means of this legislation the property of citizens of consumer states is appropriated to the pockets of the oil producing states and the major oil companies.

It is a known fact that the Connally Act in operation has not been and cannot be enforced against the major oil companies; yet it is enforced meticulously against the small operators. Furthermore, it has been placed in operation only in the prolific East Texas pool where the independent producers beat the majors to the drill and the lease.

Similar action was taken two years ago on the oil states compact. It was put through without hearings. Yet this state compact is nothing but a license for the officials of oil producing states, with the aid of the major oil economists, to violate the antitrust laws and hold the price of crude oil above its economic level.

The Department of the Interior since 1935 has been issuing monthly forecasts of demand for motor fuel and crude oil. These forecasts provide a blue print for the major oil companies and the oil producing states to gauge production below market demand and thus increase prices. If these forecasts were issued by a trade association, the activity would be a clear violation of the antitrust laws. Why does not Congress prohibit their continuance?

These same ardent conservationists are the ones behind the high import duty on petroleum products, while our exports have mounted rapidly for the warring nations abroad.

The whole so-called oil conservation program is one of price-fixing and illegal control of supply. Any waste or conservation that might have been prevented has been purely incidental or accidental.

This Committee could well afford to spend many days in getting at the bottom of the major oil company sponsored so-called conservation program now effective

with numerous Federal aids. The program as a whole should be looked at by one committee and not shunted around in small pieces, each by itself looking innocent on its face. The Connally Act comes before the Senate Finance Committee, the oil states compact before Interstate Commerce, the monthly forecasts before appropriations and the tariff on oil before Finance and Ways and Means. It is time someone thought of the consumers and quit feathering the nest of the major oil companies.

Recently at hearings before a sub-committee of the House Committee on Interstate and Foreign Commerce it was brought out that the present members of the Petroleum Conservation Division of the Department of the Interior have been spending their time and Government travelling funds in lobbying for the passage of proration laws in states where the independent producer still has an opportunity.

This outrage is only equalled by the brazenness of former members of the Petroleum Administrative Board in appearing as counsel for the defense of the major oil companies in the conspiracy trial at Madison, Wisconsin.

Profits of the major oil companies have been large. The income of twenty of the largest companies in 1937 was in excess of 564 million dollars. We can only guess what the profits would have been if the losses sustained in marketing were not deducted before arriving at this figure. These losses in marketing are sustained to integrate the control from the production of the oil to the consumer's automobile. The annual statements of a few of them show the following profits (for 1937):

Standard Oil Co. of New Jersey	$148, 000, 000
Atlantic Refining Co	9, 942, 222
Phillips Petroleum Co	24, 000, 000
Union Oil Co. of California	12, 061, 332
Sun Oil Co	9, 544, 085
Ohio Oil Co	11, 862, 107
The Texas Corporation	54, 574, 319
The Pure Oil Co	11, 403, 805
Tide Water Associated Oil Co	15, 801, 383

The Standard Oil Company of Ohio is sometimes referred to as an example of a combination refining and marketing company that can operate profitably without production profits. In 1937 this company showed a net profit of $3,362,960.18. But this company is subsidized by transportation profits as it draws its crude oil to Ohio by pipe lines at small cost and sells its finished products at approximately 3 cents over the prices from other competitive markets, an amount equivalent to the railroad freight rate, thus realizing through the pipe line transportation medium a profit on its operations as a whole.

The Standard Oil Company, incorporated in Kentucky, operates over a number of states and is generally considered a marketing company. In 1937 this company made $4,182,899.95. But this company enjoys favorable prices from the Standard Oil Company of Louisiana because of past affiliations and volume as well. In addition, most of that profit can be attributed to the money it has charged the consumer as freight rates when it hauled the products in its own tank ships and barges.

The Colonial Beacon Oil Company, a subsidiary of the Standard Oil Company of New Jersey, engaged in refining and marketing, has consistently shown losses in its operations. In 1936 this company lost $2,912,702 and in 1937 $626,685.

The Standard Oil Company (Nebraska), of the large major oil companies, comes the nearest to being a strictly marketing company. It has a tremendous advantage over smaller jobbers through its large purchasing power and the favorable prices given to it by other Standard companies. Yet it has no production, refining, or transportation profits to subsidize it. During 1937 this company showed an operating loss, after depreciation, of $133,206.28.

Propagandists for the major oil companies point with pride to charts showing a declining retail price for gasoline. The fallacy in their charts appears quite apparent when it is remembered that most of them start with retail prices during the early twenties when the oil monopoly had a stranglehold on the industry and no new fields seemed to be in the offing.

There is a second fallacy and that is the use of prices of a great many articles of consumption, some of them, no doubt, in which monopoly or controlled prices exist. To produce a figure that is understandable by the average layman I have prepared some comparative tables on commodities which the farmer has to sell, the price received by the farmer, and a translation of this price over a period of years into the number of gallons of gasoline a given unit would purchase.

First, I present a table (Exhibit No. 5) using the farm product corn in the state of Iowa. The trend for the period 1924 to date shows that it takes more bushels of corn to buy the same quantity of gasoline.

In the next table (Exhibit No. 6) I present a like comparison with the p received by the rancher in Wyoming for his wool and the amount of gasoline a hundred pounds of wool would purchase.

The third table (Exhibit No. 7) which I present compares the sugar beet market in Wyoming with the number of gallons of gasoline a ton thereof would purchase.

And finally a table (Exhibit No. 8) showing the comparison between what the cotton farmer of Texas received for his product and the number of gallons of gasoline one hundred pounds would purchase.

These tables deserve your careful study because they indicate clearly that there is a disparity between what the farmer has to sell and the necessary product of gasoline which he must purchase.

EXHIBIT NO. 5.—*Gasoline and corn prices—Iowa (1924–38)*

Year	(1) Service Station Prices of Regular Gasoline[1] Des Moines, Iowa	(2) Farm Prices of Corn,[2] Iowa	(3) Gallons of Gasoline for 1 Bushel of Corn (2)÷(1)
	Cents per Gallon	*Cents per Bushel*	
1938	13.2	47	3.6
1937	13.5	45	3.3
1936	13.6	107	7.9
1935	13.3	62	4.7
1934	13.0	79	6.1
1933	12.0	50	4.2
1932	12.9	30	2.3
1931	11.8	28	2.4
1930	15.2	52	3.4
1929	17.1	73	4.3
1928	16.2	76	4.7
1927	15.5	83	5.4
1926	20.5	69	3.4
1925	18.6	60	3.2
1924	17.9	101	5.6

[1] Oil Price Handbooks. Represents the average weekly posted service station prices (excluding taxes) for Standard Oil Co. (Indiana) "Red Crown" Gasoline.
[2] U. S. Bureau of Agricultural Economics. Represents the weighted average annual farm prices of corn.

EXHIBIT NO. 6.—*Gasoline and wool prices—Wyoming (1924–1938)*

Year	(1) Service Station Prices of Regular Gasoline[1] Casper, Wyoming	(2) Farm Prices of Wool[2] Wyoming	(3) Gallons of Gasoline for 100 lbs. of Wool (2)÷(1)
	Cents per Gallon	*Dollars per 100 lbs.*	
1938	16.0	18.00	112.5
1937	16.8	31.00	184.5
1936	16.5	25.00	151.5
1935	15.4	17.00	110.4
1934	15.3	22.00	143.8
1933	14.8	21.00	141.9
1932	15.2	8.00	52.6
1931	14.2	12.00	84.5
1930	17.3	20.00	115.6
1929	19.1	30.00	157.1
1928	17.5	34.00	194.3
1927	17.4	30.00	172.4
1926	20.9	32.00	153.1
1925	20.0	39.00	195.0
1924	18.6	39.00	209.7

[1] Oil Price Handbooks. Represents the average weekly posted prices (excluding taxes) for regular grade "Conoco" of the Continental Oil Co. from 1924 to 1936; for 1937 and 1938 the source is the Oil and Gas Journal.
[2] United States Bureau of Agricultural Economics. Represents the weighted average annual farm prices of wool.

EXHIBIT No. 7.—*Gasoline and sugar beet prices—Wyoming (1924–1938)*

Year	Service Station Prices of Regular Gasoline [1] Casper, Wyo.	Farm Prices of Sugar Beets [2] Wyoming	Gallons of Gasoline for 1 Ton of Sugar Beets (2) ÷ (1)
	Cents per Gallon	*Dollars per Ton*	
1938	16.0	4.75	29.7
1937	16.8	4.91	30.9
1936	16.5	5.98	36.2
1935	15.4	6.18	40.1
1934	15.3	4.99	32.6
1933	14.8	5.26	35.5
1932	15.2	4.97	32.7
1931	14.2	5.71	40.2
1930	17.3	7.19	41.6
1929	19.1	7.18	37.6
1928	17.5	7.20	41.1
1927	17.4	7.66	44.0
1926	20.9	7.07	33.8
1925	20.0	6.19	31.0
1924	18.6	8.10	43.5

[1] Oil Price Handbooks. Represents the average weekly posted prices (excluding taxes) for regular grade "Conoco" of the Continental Oil Co. from 1924 to 1936; for 1937 and 1938, the source is the Oil & Gas Journal.
[2] United States Bureau of Agricultural Economics. Represents the weighted average annual farm prices of sugar beets. The 1938 price is a preliminary estimate.

EXHIBIT No. 8.—*Gasoline and cotton prices—Texas (1924–1938)*

Year	Service Station Prices of Regular Gasoline [1] Houston, Texas	Farm Prices of Cotton [2] Texas	Gallons of Gasoline For 100 lbs. of Cotton (2)÷(1)
	Cents per gallon	*Dollars per 100 lbs.*	
1938	13.5	8.30	61.5
1937	13.5	8.44	62.5
1936	13.0	11.80	90.8
1935	12.0	10.99	91.6
1934	12.3	12.51	101.7
1933	15.5	9.86	63.6
1932	12.4	6.23	50.2
1931	12.0	5.57	46.4
1930	15.0	9.61	64.1
1929	15.9	16.89	106.2
1928	15.9	17.64	110.9
1927	15.0	20.11	134.1
1926	18.8	12.72	67.7
1925	19.3	20.33	105.3
1924	17.6	22.98	130.6

[1] Oil Price Handbooks. Represents the average weekly posted service station prices (excluding taxes) for regular grade "Mobilgas" of the Magnolia Petroleum Co. prior to June 8, 1936; thereafter, regular grade "Humble Motor Fuel" of the Humble Oil and Refining Co.
[2] United States Bureau of Agricultural Economics. Represents the weighted average annual farm prices of cotton.

SUMMARY

To summarize, I have herein given you information tending to prove that:

1. The independent oil jobber performs a proper and economical service to the public.
2. Unmolested by "restraints" on competition from the major oil companies he can continue to adequately and economically serve the public.
3. The present unfair competition of the major oil companies in subsidizing their marketing losses from other branches is tending to "squeeze" the independent oil jobber out of business.
4. The major oil companies do incur losses in marketing at the present time.
5. These losses are incurred in marketing by the major oil companies in order to secure control of the oil industry from the well to the consumer's automobile.
6. The major oil company domination of the refinery market and control of wholesale and retail prices places the independent oil jobbers at their mercy.

Exhibit No. 1212

[Submitted by Paul E. Hadlick]

PRICE STRUCTURE OF "REGULAR" GASOLINE-STATE OF OHIO

POSTED BY STANDARD OIL COMPANY (OHIO)

BY YEARS, 1930-1938

SOURCE: OIL PRICE HANDBOOKS, EXCEPT FOR 1937 AND 1938 SERVICE STATION PRICES WHICH ARE AS GIVEN IN THE OIL AND GAS JOURNAL

[1] BASED ON DISCOUNTS ALLOWED TO UNDIVIDED OR 100% SERVICE STATION DEALERS.

[2] TANK CAR PRICES TO JOBBERS FOR STATE-WIDE DELIVERY (EXCLUDING TAXES)

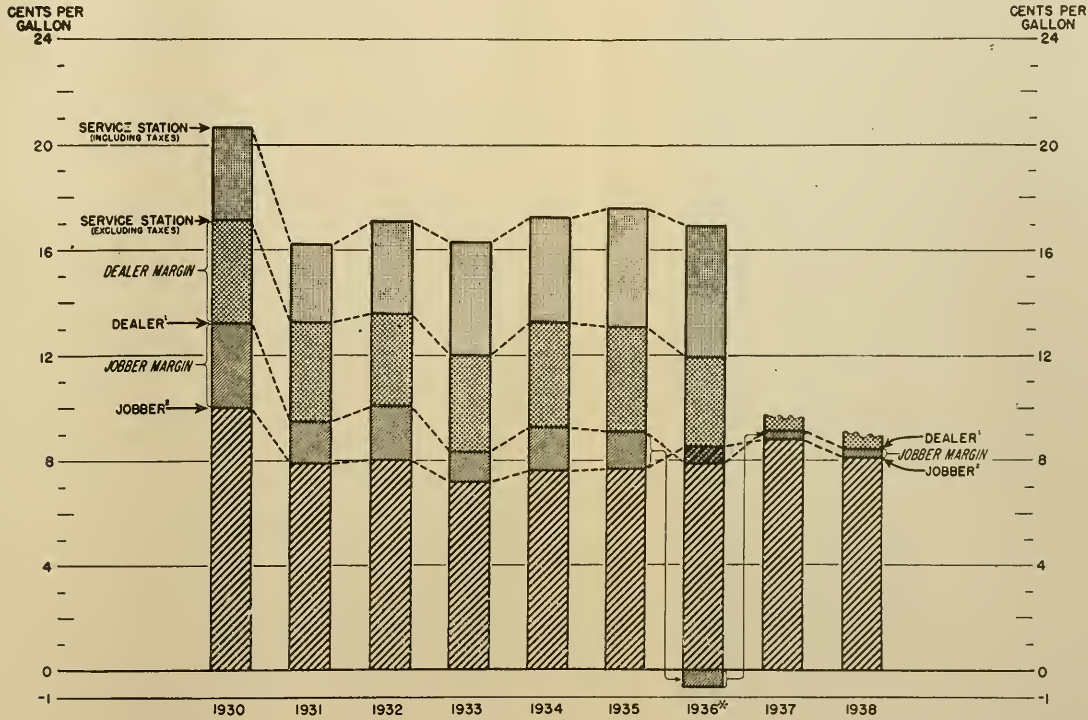
EXHIBIT No. 1213

[Submitted by Paul E. Hadlick]

PRICE STRUCTURE OF "REGULAR" GASOLINE - SCRANTON, PENNA.

POSTED BY ATLANTIC REFINING COMPANY

BY YEARS, 1930-1938



SOURCE: OIL PRICE HANDBOOKS. 1937 AND 1938 SERVICE STATION PRICES NOT AVAILABLE.

[1] BASED ON DISCOUNTS ALLOWED TO UNDIVIDED OR 100% SERVICE STATION DEALERS.

[2] TANK CAR PRICES AT NEW YORK HARBOR, REPRESENTING MAJORITY OF SALES AND QUOTATIONS TO JOBBERS, PLUS FREIGHT TO SCRANTON, PA. (EXCLUDING TAXES)

*DURING 1936, A JOBBER ACTUALLY LOST MONEY, UNLESS HIS SOURCE OF SUPPLY GRANTED AN ALLOWANCE ON HIS PURCHASES WHICH OFFSET ALL OR PART OF THE LOSS.

EXHIBIT No. 1214

[Submitted by Paul E. Hadlick]

PRICE STRUCTURE OF "REGULAR" GASOLINE - BOSTON, MASS.

POSTED BY SOCONY-VACUUM OIL COMPANY, INC.

BY YEARS, 1930-1938

SOURCE: OIL PRICE HANDBOOKS 1937 AND 1938 SERVICE STATION PRICES NOT AVAILABLE

[1] BASED ON DISCOUNTS ALLOWED TO UNDIVIDED OR 100% SERVICE STATION DEALERS.

[2] TANK CAR PRICES REPRESENTING MAJORITY OF SALES AND QUOTATIONS TO JOBBERS (EXCLUDING TAXES)

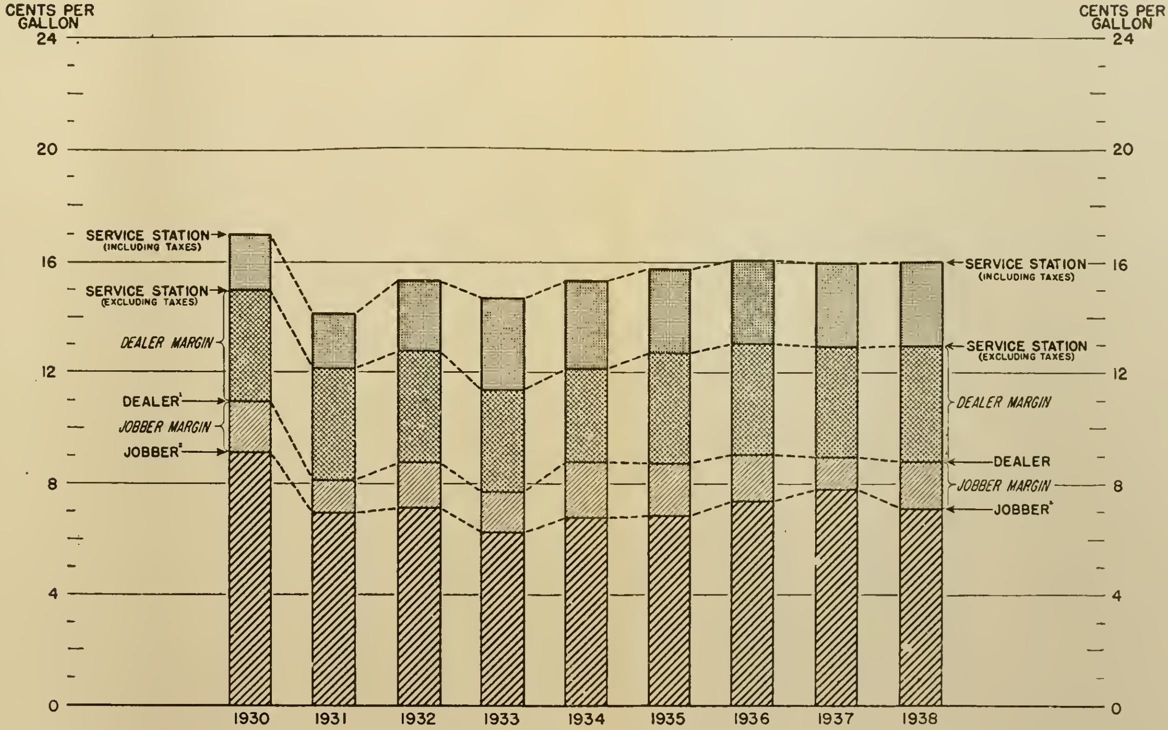
Exhibit No. 1215

[Submitted by Paul E. Hadlick]

PRICE STRUCTURE OF "REGULAR" GASOLINE - WASHINGTON, D. C.

POSTED BY STANDARD OIL COMPANY OF NEW JERSEY

BY YEARS, 1930-1938



SOURCE: OIL PRICE HANDBOOKS, EXCEPT FOR 1937 AND 1938 SERVICE STATION PRICES WHICH ARE AS GIVEN IN THE OIL AND GAS JOURNAL.

[1] BASED ON DISCOUNTS ALLOWED TO UNDIVIDED OR 100% SERVICE STATION DEALERS.

[2] TANK CAR PRICES AT BALTIMORE, MD., REPRESENTING MAJORITY OF SALES AND QUOTATION TO JOBBERS, PLUS FREIGHT TO WASHINGTON, D. C. (EXCLUDING TAXES).

124491—40—pt. 16, sec. 3 (Face p. 9166) No. 4

Exhibit No. 1216

[Submitted by Paul E. Hadlick]

PRICE STRUCTURE OF "REGULAR" GASOLINE-DENVER, COLO.

POSTED BY CONTINENTAL OIL COMPANY

BY YEARS, 1930-1938

SOURCE: OIL PRICE HANDBOOKS, EXCEPT FOR 1937 AND 1938 SERVICE STATION PRICES WHICH ARE AS GIVEN IN THE OIL AND GAS JOURNAL.

[1] BASED ON DISCOUNTS ALLOWED TO UNDIVIDED OR 100% SERVICE STATION DEALERS.

[2] TANK CAR PRICES AT OKLAHOMA REFINERIES PLUS FREIGHT FROM TULSA, OKLA. TO DENVER, COLO. (EXCLUDING TAXES)

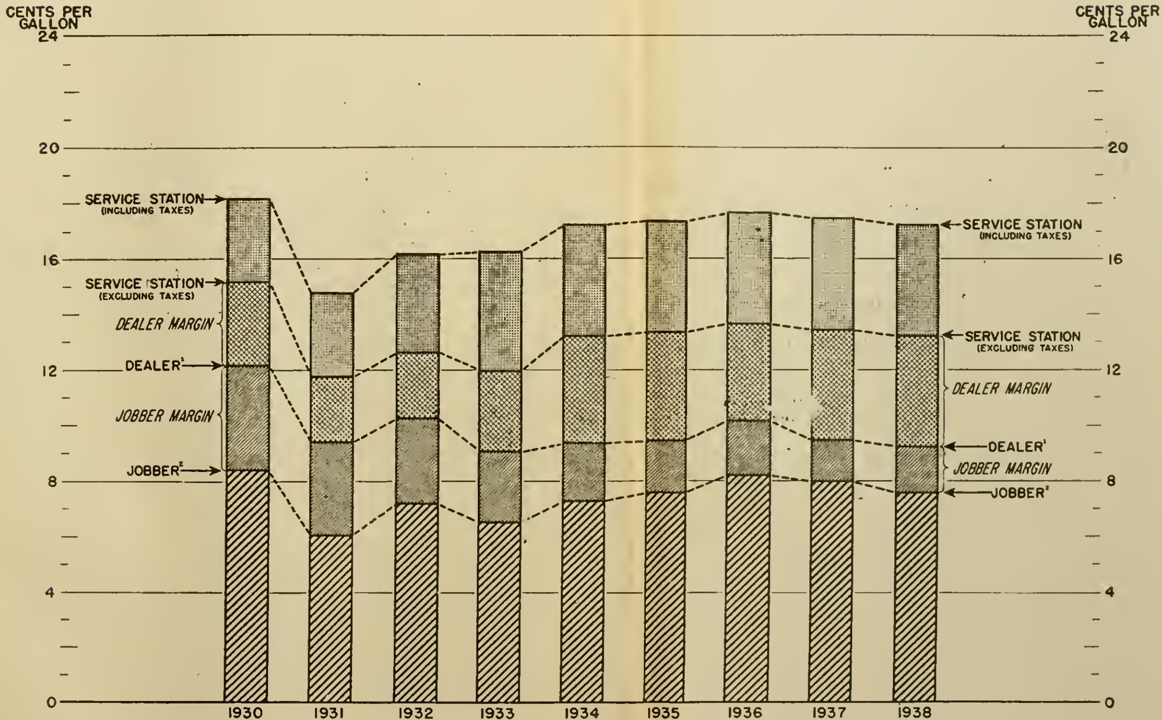
Exhibit No. 1217

[Submitted by Paul E. Hadlick]

PRICE STRUCTURE OF "REGULAR" GASOLINE–DES MOINES, IOWA

POSTED BY STANDARD OIL COMPANY (INDIANA)

BY YEARS, 1930-1938



SOURCE: OIL PRICE HANDBOOKS, EXCEPT FOR 1937 AND 1938 SERVICE STATION PRICES WHICH ARE AS GIVEN IN THE OIL AND GAS JOURNAL

[1] BASED ON DISCOUNTS ALLOWED TO UNDIVIDED OR 100% SERVICE STATION DEALERS.

[2] TANK CAR PRICES AT OKLAHOMA REFINERIES PLUS FREIGHT FROM TULSA, OKLA. TO DES MOINES, IOWA (EXCLUDING TAXES).

Exhibit No. 1218

[Submitted by Paul E. Hadlick]

PRICE STRUCTURE OF "REGULAR" GASOLINE-BIRMINGHAM, ALA.

POSTED BY STANDARD OIL COMPANY (KENTUCKY)

BY YEARS, 1930-1938

SOURCE: OIL PRICE HANDBOOKS, EXCEPT FOR 1937 AND 1938 SERVICE STATION PRICES WHICH ARE AS GIVEN IN THE OIL AND GAS JOURNAL.

[1] BASED ON DISCOUNTS ALLOWED TO UNDIVIDED OR 100% SERVICE STATION DEALERS.

[2] TANK CAR PRICES AT OKLAHOMA REFINERIES PLUS FREIGHT FROM TULSA, OKLA. TO BIRMINGHAM, ALA. (EXCLUDING TAXES)

As a Committee, your recommendations to Congress will be of considerable weight. You can recommend legislation to divorce oil marketing and pipe lines from production and refining. Such legislation would relieve the independent oil jobber of unfair competition and at the same time protect the public. In closing, permit me to discuss this remedy briefly.

Over thirty years ago Congress divorced the railroads from their operation of coal mines, timber lands, and so forth. The abuses existing in oil marketing through the subsidized competition of the major oil companies is far worse than that which prompted Congress to adopt the Hepburn Act.

Under the antitrust laws as they stand the meat packers have been divorced from operating retail stores and the Department of Justice now has pending an equity suit to divorce the motion picture producers from operating theatres.

More recent legislation by Congress along this line includes such legislation as divorcement of banking and investment and the disintegration of the public utility holding company systems.

State divorcement legislation has been upheld in the courts, including the Mississippi statute preventing corporations manufacturing cottonseed oil and meal from operating gins, the North Dakota statute prohibiting the operation or control of theaters by motion picture producers, the Illinois statute forbidding grain warehousemen from engaging in grain trading and numerous other state laws divorcing banking from investment and prohibiting manufactures of alcoholic beverages from engaging in or having any interest in retail liquor stores.

We do not fear the competition of the major oil companies in marketing if such marketing was not subsidized from profits from other branches of the industry. Because of the consistent policy over these many years in operating their marketing departments at a loss, the only way we can see out of our difficulty, and the only way to prevent complete monopoly in the oil industry, is the prompt passage of divorcement legislation such as that sponsored by Senator Gillette (S. 448) and Congressman Harrington (H. R. 2318) and pipe line divorcement legislation such as suggested by Senators Borah and Gillette (S. 2181).

At least divorcement of marketing and pipe lines from the other branches of the oil industry would cut two of the avenues to oil monopoly. It would place all in the marketing branch on the same footing competitively and make them all compete both in purchasing their refined supplies and in selling same to the dealers and consumers. If control over oil is to be broken the breaking must start someplace. The hardiness of the oil octopus is not to be hindered by a few antitrust suits. I am convinced that the plea of nolo contendere accepted by the Government in the second Madison oil case, involving the conspiracy to fix jobber margins (the real problem of which the jobber complained) has not solved the jobber problem. Something more is needed. Major operations in the way of marketing and pipe line divorcement are essential.

EXHIBIT No. 1219

[Submitted by Paul E. Hadlick]

GALLONS OF GASOLINE ONE BUSHEL OF CORN WILL BUY

DES MOINES, IOWA

BY YEARS, 1924-1938

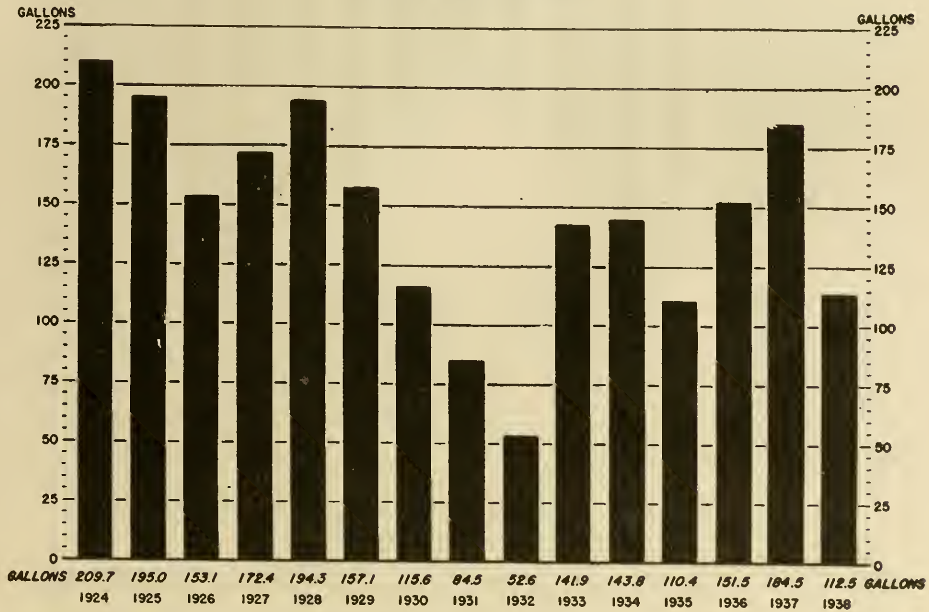
EXHIBIT No. 1220

[Submitted by Paul E. Hadlick]

GALLONS OF GASOLINE 100 POUNDS OF WOOL WILL BUY

CASPER, WYOMING

BY YEARS, 1924-1938



SOURCES: OIL PRICE HANDBOOKS AND UNITED STATES BUREAU OF AGRICULTURAL ECONOMICS. WOOL PRICES ARE WEIGHTED FOR THE STATE OF WYOMING; GASOLINE PRICES ARE SERVICE STATION PRICES AT CASPER FOR REGULAR GRADE AS POSTED BY CONTINENTAL OIL CO., AND AFTER 1936 THE SOURCE IS THE OIL AND GAS JOURNAL

Exhibit No. 1221

[Submitted by Paul E. Hadlick]

GALLONS OF GASOLINE 100 POUNDS OF COTTON WILL BUY

HOUSTON, TEXAS

BY YEARS, 1924-1938

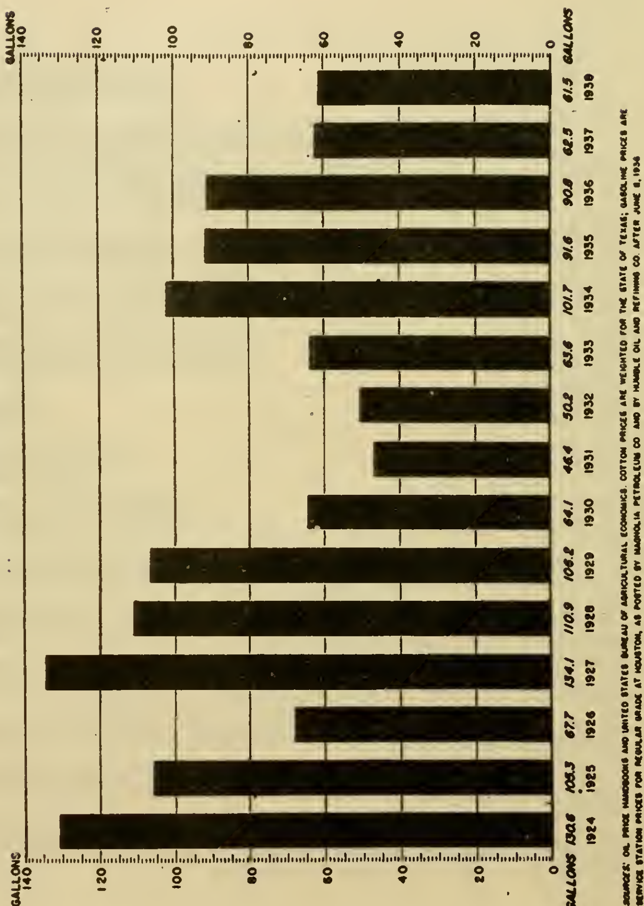


EXHIBIT No. 1222

STATEMENT PREPARED FOR THE TEMPORARY NATIONAL ECONOMIC COMMITTEE BY ARNOLD W. CRAFT, MANAGER, CRAFT OIL COMPANY, 633 MAIN STREET, AVOCA, PA.

We list herein but a portion of the many cases experienced over a period of years. It is our belief that they are a sufficient number, without further burdening you, to assist in definitely proving that the objective of the integrated companies is to destroy independent competition through their devious methods of operation.

Does it not appear that gasoline price wars are perpetrated by these interests to effectuate depressed conditions among the split station operators so that in holding out to them as a bait extra margin on gasoline and other concessions they are enabled to bring them under control? Can we fail to realize that once their objective is gained, and it seems that it will be if present conditions continue to exist, the margin will through devious methods be adjusted downward until the operators of the 100% outlets ultimately find themselves operating on the same margin that existed when they were operating split stations?

With these established conditions as prevalent as they are, can we reasonably hope to escape economic distress?

CRAFT OIL COMPANY.

Case #1. Salsbury Service Station, Chinchilla, Pa.

Bought our oil April 19, 1934. 100% Sun lease at the time. Two days after delivery we received a telephone call from Mr. Munsey, branch manager for the Sun Oil Company at Pittston, Pa., demanding that we remove the oil and sign from the property of this account because of the fact that the property was under lease to the Sun Oil Company and such lease prohibited Mr. Salsbury to handle competitive products. We did not comply with the demands as made, but continued to sell and deliver our oil to said party until, through antagonistic endeavors of the Sun Oil Company, Mr. Salsbury eventually discontinued the handling of our products. In contacting Mr. Salsbury shortly after the Sun Oil Company had made their demands for the discontinuing of the handling of our products he related the following. A tourist stopped at his station one morning stating that our sign was the first he had seen for quite a few miles and asked if he had the oil in the S. A. E. 30 grade in sealed cans. When he informed him that he did, the owner of the car stated that he would like to have the oil drained and the crankcase refilled with 8 quarts. While this operation was taking place the occupants of the car, who numbered seven, had lunches and refreshments at his place and then filled up with gas, which incidentally was Sun gas, before leaving. The entire sale amounted to over $8.00. Mr. Salsbury stated that only for our sign he would not have enjoyed this particular sale and was at a loss to understand why the Sun Oil Company should take the stand that they were taking.

Case #2. Hess Auto Supply Co., 715 Main St., Bethlehem, Pa.

Was a split station at the time we first sold him. Later on changed to a 100% Sun lease account because of extra margin on gasoline but continued to handle our products. In 1933 they purchased from us 2,425½ gallons, to which the Sun Oil Company took exception. In the early part of 1934 Mr. Hess was notified by Sun Oil Company representatives that he must discontinue handling our products or lose his courtesy card privileges. His answer was that he was not going to discontinue our products which resulted in the Sun Oil Company's removing his courtesy card sign and cancelling his courtesy card privilege. They continued to handle our products. About a year later they changed over to Standard 100%, but still continue to handle our products and display our sign.

Case #3. Hoch Auto Supply Co., 422 Broadway, Bethlehem, Pa.

100% Sun, handling our oil. In the early part of 1934 he was notified that he must remove our signs from display and discontinue the handling of our oil or his courtesy card privilege would be cancelled. Our signs were removed and our oil removed from display and kept under cover. They continue to handle our oil under these conditions.

Case #4. John DeReamer, 13th St. & Bushkill Drive, Easton, Pa.

100% Sun, enjoyed courtesy card privilege until he started marketing our oil and another independent brand of oil. Shortly after this he was notified

by representatives of the Sun Oil Company to discontinue the practice or he would have his courtesy card privilege cancelled. He informed them that the demand for the oils which they objected to made it necessary that he carry them to keep certain of his customers satisfied, also for tourist trade. They cancelled his courtesy card privilege and removed his courtesy card sign. He has continued to handle our products and display our signs.

Case #5. Ed. Werkheiser, 2540 Wm. Penn Highway, Easton, Pa.

Started business at this location in December, 1934, and in January, 1935, was notified by the Sun oil Company that he must remove from his windows the competitive oils that he was carrying, among which was ours, and discontinue handling them and the practice of displaying signs representing them or they would cancel his courtesy card privilege. His answer was that he was not discontinuing the handling of the oils that he had on display because of his endeavoring to satisfy the public. They cancelled his courtesy card privilege and removed the courtesy card sign. He has continued to handle our products and display our sign.

Case #6. Boyd Clark, Clarks Summit, Pa.

Had handled our oil for several years purchasing approximately 560 gallons per year but discontinued handling them at the time of becoming a 100% lease Cities Service Station for certain concessions being offered by them at that time. Lease still in effect.

Case #7. Robert Kloess, Kloess Service Station, 200 Park Ave., Stroudsburg, Pa.

Had been purchasing Quaker State for several years, sales amounting to the average of 200 gallons per year until going 100% Sun in the early part of 1934 in consideration of an additional margin on gas and it was necessary that he handle no competitive products. Our line was discontinued.

Case #8. Clair Caffrey, 532 Main St., Archbald, Pa.

Had been handling our products for several years averaging 660 gallons per year until going 100% Atlantic in 1935 for certain concessions made by the Atlantic Refining Company which caused us to lose our market at this outlet.

Case #9. J. P. Kaul, 630 N. Courtland St., E. Stroudsburg, Pa.

100% Sun, handled our product until the Sun Oil Company through the application of pressure forced him to discontinue the handling of it.

Case #10. Canfield-Lobach, 1313 Tilghman St., Allentown, Pa.

Handled Quaker State since 1930 and their average gallonage per year was 600 gallons until going 100% Standard, which was in the Fall of 1937; since then it averages 400 gallons per year, which shows that the change has seriously affected our gallonage, also closed to us our market for grease at this outlet which we had enjoyed for several years prior to their going 100%. The Standard Oil Company of Pennsylvania put in new computing pumps, repainted the place and repaired the driveway, concreted around the lift and took care of other necessary incidentals which induced the change from the split station to Standard 100%. Also gave concession of extra margin on gas.

Case #11. Spadi Service Station, Main St., Inkerman, Pa.

100% Atlantic. Started buying Quaker State oil and displayed our sign but pressure brought to bear by the Atlantic Oil Company caused the removal of our sign from display. We prevailed upon him to again display the sign which he did. This procedure took place several times until now he continues to display it. As to the limit of concessions here we do not know, other than an extra margin on gas.

Case #12. Keith Williams, Sanderson Ave. & Larch St., Scranton, Pa.

Had handled Quaker State for several years averaging 150 gallons a year. Is now 100% Atlantic because of an extra margin on gas and other concessions which closed the market for our oil at this outlet.

Case #13. Geiger's Service Station, Cedar Ave. & Elm St., Scranton, Pa.

100% Socony Vacuum. Socony Vacuum leases the property from Mr. Robert Geiger's father on the rental basis of $80.00 a month and then re-leases it to Mr. Robert Geiger on the rental basis of $40.00 per month. Mr. Geiger handles our oil and displayed our sign until it mysteriously disappeared. Sometime later we placed another one of our signs on the curb line just inside the line of the adjoining property so that it would not be on the property leased by the Vacuum Oil Company. Recently this sign disappeared. Mr. Geiger informs us that

Vacuum Oil Company salesmen removed the sign. They constantly object to his handling our oil.

Case #14. MidValley Service Station, Olyphant, Pa.

100% Socony Vacuum. Socony Vacuum objects to their handling our oil and displaying our sign and have continued to be so adamant about it that our sign is not on display and our oil is handled under cover. Concessions extended by the Socony Vacuum cause them more or less to be subject to their dictates.

Case #15. Joseph Lieberman, 520 Monroe St., Easton, Pa.

Because of extended concessions he changed over to 100% Tidewater Oil at the beginning of this year. Shortly thereafter he was notified to remove our display signs from the front of his place. The orders were complied with. We still enjoy a market for our products at this outlet but under hampered conditions. The installation of computing pumps and an additional margin on gas were the chief influences in this case.

Case #16. Feretti's Garage, 1169 Wyoming Ave., Exeter, Pa.

Mr. Feretti rented the garage from Mr. J. B. McNichols who had operated the garage for a number of years. Mr. McNichols had been 100% Gulf for several years. However, he had handled our oil over a period of years and displayed our signs. Shortly after Mr. Feretti had rented the garage the Egan Oil & Supply Company of Pittston, distributors for Gulf products serving this account, discontinued Gulf products and took on the distribution of Tidewater products. Mr. Feretti's place became affected through the change to the extent that the Egan Oil & Supply Company removed the Gulf tanks and pumps and replaced them with the Tidewater Oil equipment, which resulted in the Gulf Refining Company then removing the Tidewater Oil equipment and replacing their own, all of which very much hampered Mr. Feretti's business. The ultimate result was that the Gulf Oil Company leased the property from Mr. McNichols and Mr. Feretti found himself in a position where he was forced to lease it from the Gulf Refining Company. At the time of signing the lease with the Gulf Refining Company Mr. Feretti was promised by them that they would paint and install a lubritorium making necessary repairs to his lift and take care of other incidentals. But, as yet they have not fulfilled any of the promises. Shortly after signing the lease with the Gulf Refining Company he found himself more or less subject to their dictates. They forced the removal of our sign from display and our oil from window display until he keeps our oil under cover with but a very few cans on the shelf in the office at the front of the building. They also forced him to use their greases instead of ours. When I say forced I mean that he was informed that unless he went along with the Gulf Refining Company they could put him out of the place on ten days notice.

Case #17. R. S. Higgins, Emmaus, Pa.

Had handled Quaker State in limited amounts but openly, also displayed our sign, for several years until going 100% Standard the beginning of this year. He was induced to make the move because of extra margin on gas. painting and other concessions made by the Standard Oil Company. This closed the market to our products at this outlet.

Case #18. Louis Schafer's Garage, White Haven, Pa.

100% Atlantic. Mr. Schafer leases from the Atlantic Refining Company. The property is that of Mr. Robert Raudenbush who, we are informed, received an advancement of $2500.00 from the Atlantic Refining Company in exchange for a ten year lease on the property. Mr. Raudenbush recently erected a garage at this location. We are informed that the $2500.00 advancement was for the erection of the garage. While I was contacting Mr. Schafer Thursday, May 11, he informed me that he could not handle our oil as freely at this location as he did at his former one, but he would continue to handle it because some of his customers would not have anything else. I then ask him about the display of our oil and signs and he said as yet he was not sure whether or not he could do so, which establishes the fact that at present we do not have a free and open market for our products at this outlet.

Case #19. M. A. Fagan, Jessup, Pa.

100% Atlantic. Handled our products for quite some time until the continuous agitation by Standard representatives caused him to decide against the handling of our products which closed the market to our products at this station.

Case #20. John Wells, Milford, Pa.

100% American. Handles our products even though the American Oil Rrepesentatives have suggested on many occasions that he discontinue the handling of them as soon as his stock would become depleted. This has not happened as yet because Mr. Wells continues to replenish his stock at regular intervals.

Case #21. Dahl Motor Co., 206 E. Hamilton St. Allentown, Pa.

Formerly Murray Auto Corp. with whom we enjoyed an excellent piece of business. With the new proprietorship there came a change in conditions because we were advised by them that the Socony Vacuum Company was spending approximately $1100.00 on equipment and paint in the place with the understanding that they handle their products only. However, we do enjoy a limited business here merely to care for the demands of certain customers.

Case #22. McCarthy Tire Service, Scott St., Wilkes Barre, Pa.

100% Sun. Handling our products but cannot display our signs or our oil because of concessions made by the Sun Oil Company at the time of erecting their building and installing their equipment.

Case #23. Roth Gas Station, 8th & Mahoning Sts., Lehighton, Pa.

Changed from a split station to a 100% Standard station the early part of this year stating that he did so chiefly because of the price wars which had so affected his business that he was practically compelled to go 100% in order to benefit by a greater margin on his gas. The Standard also installed a new twenty-five foot island, three new computing pumps, island lights, painted the buildings and agreed to cement the driveway. Mr. Roth, who had been a split station selling Atlantic, Sun and Standard, stated to me yesterday that the Atlantic Refining Company approached him about two years ago with the best offer he had ever had, but he turned it down because he felt at that time he would much prefer being definitely an independent. The proposition was that they would give him $50.00 a month rent, surface his driveway, furnish five new computing pumps, take care of painting and other necessary incidentals, and give him the usual extra margin on the 100% station over the split station. Because of his hesitance in accepting the proposition they threatened that unless he accepted they would erect a station of their own across the way. He did not accept the proposition so they purchased a corner lot in the same block on the opposite side of the street and erected an Atlantic service station, including a lubritorium. He stated that since his refusal of the Atlantic proposition the gas price wars had so played havoc with his business that he was practically forced into going 100% or getting out of the business.

Case #24. Tulsa Petroleum Co., N. Washington Ave. & Ash St., Scranton, Pa.

Handled our products for several years averaging 1500 gallons per year until they made a deal with the Standard Oil Company of Pennsylvania to market their products through their various stations. I was told by Mr. Philbin, secretary of the company, that in order to obtain certain concessions from the Standard Oil Company they had to make certain concessions in exchange and that the discontinuance of the handling of our products was one which had to be made. Therefore, this closed the market for our products at the various outlets controlled by this company.

Case #25. Ellsworth Case, 219 N. 3rd St., Easton, Pa.

Formerly was a split station handling Atlantic, Sun and Standard, also our products, but discontinued the handling of Sun and Standard and became a 100% Atlantic outlet when induced to do so by the Atlantic Refining Company's leasing to them one of their company-owned stations at S. 3rd & Ferry Sts. As soon as this had taken place our oil was displayed only in limited quantities at the place on N. 3rd St.

Case #26. Sutcliffe Service Station, Adams Ave. & Ash St., Scranton, Pa.

100% Texas but does not lease his place to the Texas Company. We find a free and open market for our products at this outlet but Mr. Sutcliffe relates the usual story about the depressed condition of his business because of gas price wars and about offers being made to him by the Texas Company providing he will lease the place to them—offers that are almost unbelievable.

Case #27. Karmilowicz & Schwartz, 100 S. Wyoming Ave., Kingston, Pa.

Repair garage and gas station, termed as a split station because they handle several brands of gas. We have had this account on oil and grease since March, 1937, and up to the first of May this year they have purchased 1868 gallons of

oil and 4620 pounds of grease. While talking with Mr. Karmilowicz Friday, May 12, he again related to me a story about the Atlantic Refining Company's endeavoring to have him go 100% but was a little more specific in his remarks with reference to the matter. He stated that the Atlantic Refining Company had offered him a proposition as follows. They would do the necessary concreting of his driveway, furnish new gasoline pumps, do the necessary painting inside and outside of the buildings, pay off the balance owed on the lubritorium equipment (which we sold to this outfit on finance plan) and then this equipment would belong to Karmilowicz & Schwartz without any further payments, and would give them an extra margin on gas and rental of $100.00 a month, but in doing so it would be necessary that the lease be turned over to the Atlantic Refining Company. The lease has a period of three years to run before time of expiration. Mr. Karmilowicz states that the contract which they presented for him to sign took from him practically everything but his shoes. Therefore, he claims that he will not consider signing up with them.

Case #28. John Ruchinski, Newport Service Garage, Newport, Pa.

On March 29 our salesman called on Mr. Ruchinski soliciting business in the usual manner. Obtained an order for several cases of our motor oil on C. O. D. basis and a request for a curb sign for display purposes. Mr. Ruchinski signed the order and evidently was perfectly satisfied with the proposition. On Friday, March 31, the goods were delivered. He accepted them and paid for them in cash. Saturday morning about 9 o'clock he called our office and asked that we take back the oil because shortly after he had received and set the sign out the Atlantic Refining Company salesman, making a call on him, noticed our sign and oil and informed him that because of his being signed up as a 100% lease Atlantic outlet he could not handle our oil or display our sign and must remove them from the property. At 10:05 A. M. the Atlantic Refining Company salesman called our office and I talked with him personally. He states over the phone that Mr. Ruchinski of the Newport Service Garage, on account of having no phone, had asked him to call our office requesting that we take back the oil and our sign. When I asked him the reason, which of course we knew because of Mr. Ruchinski's telephone call, he stated that Mr. Ruchinski said he had been high-pressured into the sale. My answer to the Atlantic Refining Company salesman was that we would take back the oil and pick up our sign as soon as Mr. Ruchinski would furnish us with an affidavit as to his reason for wanting to return the oil. He stated that it was not necessary to go to all of that foolishness. I told him that as far as we were concerned it was not foolishness because Mr. Ruchinski apparently was perfectly satisfied with the handling of our products up to the time of his visit. I asked him who owned the property. He stated that Mr. Ruchinski did. I then asked him if he was calling for Mr. Ruchinski or for the Atlantic Refining Company. He again stated that he was calling for Mr. Ruchinski, to which my answer was that as far as we were concerned he was calling for the Atlantic Refining Company because Mr. Ruchinski had already called our office earlier in the day and related to us the complete story.

We have not as yet taken back the oil, nor have we removed the sign from the property. However, the sign has been removed from display. Nevertheless, he has sold some of our oil, even under these adverse conditions.

Case #29. Wm. F. O'Hara, Pleasant Mount, Pa. and Nield's Gas Station, Preston Park, Pa.

While making a trip through Wayne County on April 24 I contacted Nield's Gas Station, Preston Park, Pa.. Mr. Nield related to me a story about Gulf Refining Company's putting up a garage for him, providing he would sign a long term 100% lease and they would retain one cent a gallon on the gas which was delivered to him, applying it against the account covering erection of the garage. They explained that the one cent per gallon would amount to the difference between his being a split station and being a 100% station. In other words, the garage would represent the difference between a split station and a 100% controlled. Then, continuing my trip, I called on Mr. Wm. O'Hara, Pleasant Mount, Pa., who had been so unfortunate as to have lost his garage by fire just a short time prior to my visit. He related the same story to me that Mr. Nield had. In fact, it amounted to the Gulf Refining Company's rebuilding his garage in consideration of a long term lease and retaining a cent a gallon in payment thereof, which actually amounted to the difference between a split station and a 100% controlled station. Mr. O'Hara has been 100% Sun for some time. However, we have enjoyed a nice outlet here for our oil, also a fair outlet at

Nield's gas station. In the case of Mr. O'Hara it must be admitted, when considering his misfortune, that the offer of the Gulf Refining Company has a certain human appeal to it. Nevertheless, the objective sought is the exclusion of competitive products.

Case #30. Herbert S. Miller, 1028 N. 19th St., Allentown, Pa.

Handling our products for several years, termed a split station because of his handling more than one brand of gasoline. After talking with him May 12 our salesman related the following story to us. "Mr. Stahlnecker, salesman for Sun Oil Company, called May 11 and told Mr. Miller that he would have to go 100% Sun or they would pull their pumps out. Mr. Miller told him to go ahead and pull them out. As the conversation continued, Mr. Stahlnecker informed him that he would have to go 100% sooner or later, if not with Sun then with one of the other companies, for the gas companies were out to clean up split stations."

It would appear that the gas price wars have been very effective in practically driving many independents into accepting almost any proposition, irrespective of how drastic it is, that the major companies have to offer. I would like to have it made a matter of record that out of 630 outlets that we have, including service stations, garages and car dealers, 424 are 100% controlled outlets. Also, that in our little town of 5,000 population we have eleven gas stations all of which are 100% controlled, which decidedly prevents an open market in our own town for our products. I would like also to have it made a matter of record that we do not operate any retail outlets, which in turn favors our dealers because we are not in direct competition with them.

(Signed) ARNOLD W. CRAFT.

AWC: MEH
5/13/39

EXHIBIT No. 1223

A STATEMENT PREPARED FOR THE TEMPORARY NATIONAL ECONOMIC COMMITTEE BY IRVING B. CULVER, SALES MANAGER, NATIONAL OIL & SUPPLY COMPANY NEWARK, NEW JERSEY

BRIEF HISTORY

NATIONAL OIL AND SUPPLY COMPANY, distributors of QUAKER STATE MOTOR OILS AND GREASES in the METROPOLITAN NEW YORK area.

Incorporated in the State of NEW JERSEY in the month of OCTOBER in the year One Thousand Nine Hundred and One.

Main Office at 172–180 Frelinghuysen Avenue, City of Newark, State of New Jersey, employing ninety six persons.

Distributors of QUAKER STATE products since the month of MAY in the year One Thousand Nine Hundred and Twenty Two.

REASON FOR PERSONAL APPEARANCE BEFORE TEMPORARY NATIONAL ECONOMIC COMMITTEE

To give your Committee as clear as possible a picture of the problems confronting an INDEPENDENT DISTRIBUTOR of a well known nationally advertised Motor Oil and Lubricant.

To present to you an INDEPENDENT DISTRIBUTOR's relationship with Service Stations, Garages and Automobile Dealers, which exists in the marketing of these products directly at the demand of the consumer.

To tell you of the various ways in which the INDEPENDENT DISTRIBUTOR is handicapped in dealing with the Owners of these Stations, Garages and Automobile Dealers, because of the various threats and intimidations used by the Major Oil Companies in restricting and preventing the merchandising of an INDEPENDENT Producers products.

To tell you how the free flow of INDEPENDENT brands of Oil and Greases have been so blocked with restraints that it restricts the sale of the products and also prevents the general public from obtaining it.

The restrictions placed upon such dealers by the Major Oil Companies through their methods of Lease and Agency Agreements, Credit Signs and Courtesy Credit Card Privileges, installing equipment, repainting, repaving driveways, etc., in order to obtain the business of these dealers 100%.

Accounts we lost to major oil companies in 1938 which bought Quaker State products during 1937

Shell Oil Company	28
Cities Service Oil Company	6
Standard Oil Company of New Jersey	38
Standard Oil Company of New York	36
Tidewater Oil Company	20
Sun Oil Company	8
Pure Oil Company	3
Sinclair Oil Company	5
Texas Oil Company	5
Richfield Oil Company	4
Gulf Oil Corporation	12
American Oil Company	5
Continental Oil Company	2
Total	172

We attribute the loss of these accounts to the following circumstances.

The Major Oil Companies select a Dealer who has a choice location and is doing a good business. They then proceed to persuade the Dealer to accept credit from them and, in most cases, the Dealer finds it easy to become heavily indebted.

He is told at the start that he will not be pressed for payment, providing he agrees to discontinue the selling of QUAKER STATE products.

This has occurred particularly frequent in New Jersey during 1937 and 1938 where there have been a number of gasoline wars.

The Dealer in fear of losing his businesss agree to these terms and almost invariably the outcome is that the Dealer loses his Service Station or Garage to the Major Oil Company. They in turn lease the property to an individual whose only requirement is that he possess $500.00 capital with which to purchase stock—Gasoline, Oil, Tires, Alcohol and other supplies—which must be purchased from the Major Oil Company.

The proposition is made attractive to the lessee at the beginning when a spread of 4¢ per gallon is given on Gasoline. But, after he has worked diligently to increase the business, sometimes working as many as eighteen hours a day and often giving, at his own expense, special secret rebates to commercial accounts, the lessee must pay additional expenses, such as, City License Tax, Pump Tax, Water, Electric Light, Power and the help which he employs, thereby, increasing the operating expenses to a point where the lessee cannot earn over approximately $22.00 per week.

The Major Oil Companies, under this arrangement, enjoy the freedom from paying the State Compensation Insurance, Social Secuirty Tax and other responsibilities and liabilities.

Under these circumstances, the Major Oil Companies are constantly changing the lessee as the contract stipulates that changes can be made upon five day notice and reimbursement made for the amount of stock then on the premises.

A great many Service Stations and Garages that are now owned by the Major Oil Companies in our territory were formerly independently owned and came into the Major Oil Companies' possession through means above cited.

Because of this practice it is almost impossible for an Independent Owner to operate.

On Page 4, we list 172 accounts lost to Major Oil Companies—a few examples are cited in this statement and the others can be substantiated at the hearing.

METHODS EMPLOYED BY THE MAJOR OIL COMPANIES IN SECURING INDEPENDENT DEALERS OF PETROLEUM PRODUCTS ON LEASE AND AGENCY AGREEMENTS

One by one the privately owned Service Stations and Garages, formerly enjoying a good business retailing QUAKER STATE products, have been persuaded to sign a Gasoline and Oil contract with the Major Oil Companies.

When this is accomplished the verbal agreement, which assured them permission to handle our product, is ignored and they are told by the salesman representing the Major Oil Comoanies that the promised improvements and equipment, such as, concrete side all's, painting of building, installing computing pumps, by which the Dealer was induced to sign a one to five year contract, will not be forthcoming unless they agree to discontinue the sale of QUAKER STATE products.

They are also threatened with the loss of the Courtesy Credit Card privilege and in many instances they actually lose this privilege.

If the Owner insists upon handling our products in many instances he cannot display the merchandise or signs and is obliged to conceal the merchandise in a back room, under the counter or in the basement.

When this condition exists our salesmen have to make out orders with the following instructions as to delivery. "When driver is making delivery do not stop in front of station but park truck a block away and first learn if a representative of the Major Oil Company is on the premises before attempting to deliver the order."

We have on record accounts of this type too numerous to list here, but we are citing below a few examples of these practices.

BEHR BROTHERS SUPER SERVICE STATION, is an Esso Station (Standard Oil Company of New Jersey) on Highway 25, Woodbridge Avenue, Lindenau, New Jersey. This account had a Credit Sign removed three times because he displayed a Quaker State sign and stocked QUAKER STATE Motor Oils.

During one week-end this customer had among his charge accounts a charge slip which was signed by a customer from the State of Mississippi and two or three other out of State slips, and he was told that the Major Oil Company could not honor the charges unlesss the QUAKER STATE sign and merchandise were removed.

He removed the QUAKER STATE sign and it is still not displayed on his premises, but he has continued to sell some QUAKER STATE products, but must keep them in the back room under cover.

FURLONG SERVICE STATION, Carey Avenue and Dongan Street, West New Brighton, Staten Island, New York.

This account is a Super Service Station handling Gulf Oil Corporation's Gasoline and is a very good QUAKER STATE customer, as you can see from the following gallonage.

1932	808 gallons	1936	1914 gallons
1933	1939 "	1937	1486 "
1934	1370 "	1938	1327 "
1935	1455 "	1939	[1] 279 "

[1] First six months.

About two years ago Mr. Furlong's son developed Infantile Paralysis and because he was hard pressed for money Mr. Furlong appealed to the Gulf Oil Corporation to loan him money and they took a mortgage on his property. Shortly, thereafter, they started to put the pressure on him to discontinue handling QUAKER STATE products or face the possibility of having the mortgage called for payment. As a result of this threat the QUAKER STATE products he now sells must be hidden away in a back room.

ALBERT EGAN SERVICE STATION, 149 Victory Boulevard, Tompkinsville, Staten Island, New York, handles Gulf Oil Corporation's Gasoline.

He was approached in April of this year by the Gulf Oil Corporation's representative with a proposition that they would remodel his Service Station, furnish him with modern equipment and take back a mortgage, which he was to pay off at a rate of ½¢ per gallon on Gasoline purchased.

He agreed to this, provided the Gulf Oil Corporation would give him permission in writing to handle QUAKER STATE products, whereupon they refused to go through with the deal.

He is one of the few business men who could see through their tactics.

RECENT DEVELOPMENTS BY THE MAJOR OIL COMPANIES TO OBTAIN AUTOMOBILE DEALER BUSINESS

The Major Oil Companies are now active in obtaining the best type Automobile Dealer accounts. This business has long been attractive to the INDEPENDENT Producers and many of the Automobile Dealers businesses have been built up over a period of years. Many credit losses have occurred in the past to the INDEPENDENT Producers because of the great number of changes and failures that take place among the second and third grade Dealers, who start with very limited capital.

The best class of Dealers, who are now in existence, are the type of accounts that the Major Oil Companies are actively making interesting propositions to in order to obtain their business 100%. To cite a few examples of what we have in mind. We have a number of other examples in our files.

CATHEDRAL MOTORS, 334 West 110th Street, New York City, whose business we have enjoyed since 1932 with a gallonage as follows:

1936	523 gallons
1937	1147 "
1938	1065 "
1939	[1] 525 "

[1] First six months.

This customer called our office on July 18, 1939 and asked to have our representative call to see him. Our representative called on this account and Mr. Victor Lagow informed him that he would like to continue to sell QUAKER STATE products. That he was sold on the products and well satisfied with the treatment he has received from our Company.

However, he had rented a larger Service Station three doors away from the building he now occupied and the Tidewater Oil Company had offered to concrete the Garage, repaint the entire building, install grease lifts and other necessary operating equipment at an expenditure of $1,500.00.

He said he would much prefer to give us his business and would continue to do so, provided we would agree to do the same for him.

We, of course, were obliged to decline the business as it is impossible for us to meet any such competition.

SPIELMAN CHEVROLET, 250 Hudson Street, New York City, whose business we have enjoyed for many years. Recently the Standard Oil Company of New York modernized the Brooklyn Station for a three year contract on Oil at an estimated cost of several hundred dollars. This kind of competition could not be met by us.

HARCOURT MOTORS, 305 Broadway, Newburgh, New York. QUAKER STATE Products have been sold by this account since 1923 and they had built up a substantial business on these products, as shown by the following gallonage.

1933	604 gallons	1936	1154 gallods
1934	779 "	1937	1100 "
1935	827 "	1938	[1] 495 "

[1] First five months.

In May of 1938 the Tidewater Oil Company offered this account a proposition to install certain grease lifts, backgrounds and grease equipment to the extent of $500.00, which the Tidewater Oil Company agreed to depreciate out of earned rebates at $11.00 per month. On this basis the Harcourt Motors were obliged to make all Oil purchases from Tidewater Oil Company for a period close to four years.

The contract contains a thirty day cancellation clause whereby either party can cancel. If the contract is cancelled by Harcourt Motors, they must pay the difference between the earned rebate up to the time of cancellation and the amount of $500.00. If Harcourt Motors refuse to pay this difference, then the Tidewater Oil Company can remove the equipment.

RESTRICTIONS PLACED UPON DISTRIBUTORS OF INDEPENDENT PRODUCTS BY REASON OF CREDIT CARD PRIVILEGES

C. R. STICKLE PETROLEUM COMPANY, Morris Avenue, Union, New Jersey, stated the following to Mr. Maybaum, our Vice President, and Mr. Berg, our Treasurer:

"I would like to sell QUAKER STATE products at my Station, but I am prevented from doing so because I have a Lease and Agency Agreement to sell Standard Oil Company of New Jersey products 100% and they also give me a Credit Card Sign as well as the Courtesy Credit Card privilege."

Mr. Stickle owns the land, building, tanks and equipment outright, and even though he is independent, he is prevented from selling our products.

There are a great many of these Dealers being so restricted by the Major Oil Companies through their method of Credit Signs and Courtesy Credit Card privileges, restraining the Dealer from marketing well advertised INDEPENDENT Oils and Greases.

The free flow of INDEPENDENT brands of QUAKER STATE Motor Oils have been so blocked with restraints that it restricts the sale of the products and prevents the general public from obtaining it.

Exhibit No. 1224

Statement Prepared for the Temporary National Economic Committee by L. S. Scott, Loughborough Oil Company, 1022 17th Street N. W., Washington, D. C.

During the past seventeen years since 1922 I have been constantly engaged in the wholesale and retail marketing of gasoline, fuel oil, motor oil and motor lubricants as an independent marketer here in the District of Columbia and nearby Maryland and Virginia. During the days of the N. R. A. I was chairman of the Code Committee of the petroleum industry for the District of Columbia. During this period of seventeen years I have been in close contact with both the independent and major marketers in this area. At one time or another I have talked with independent marketers like myself from nearly every section of the country. I give this background of my experience to indicate to you that I have had ample opportunity to acquaint myself with most of the activities engaged in by the petroleum industry here in the nation's Capitol and in other areas.

While I am somewhat familiar with marketing conditions in other areas, I will restrict this statement to conditions here in the District of Columbia, so as not to present a large volume of unsubstantiated material reflecting my own or others' personal views.

During the past seven or eight years the Department of Justice and Federal Trade Commission have undoubtedly accumulated a very large file of substantiated facts regarding practices and activities indulged in by the dozen or more major oil companies. However, I will include with this statement a number of specific cases which can be added to the record. I am sure that none of these cases that I refer to are unique, or which do not reflect practices and activities engaged in by the major oil companies throughout the whole country.

The cases referred to above are set forth in some detail in the statement attached hereto and marked Exhibit "A". There is also attached hereto and marked Exhibit "B" a comprehensive survey recently made by the Washington Post which outlines in considerable detail the gasoline sold in the District of Columbia for the years 1935, 1936, 1937 and 1938, together with a current, complete and accurate list of retail filling station and garage outlets through which most of the gasoline was sold. Unfortunately, a similar survey as of some date several years prior to this recent survey by the Washington Post is not available. If such a previous survey were available, it would bring out in a startling manner what is happening in the marketing branch of the petroleum industry here in the District of Columbia. What is true in the District of Columbia is more or less true in every state of the union.

I want to point out certain reflections as shown in the survey of the Washington Post as follows:

1. As of December 1938 there were in the District of Columbia 619 retail gasoline outlets, of which 499 were either operated by or controlled by major oil companies, leaving 120 retail gasoline outlets operated by independent marketers on a "split" basis.
2. Of the 120 independent or "split" stations, 41 are partially controlled by a major oil company through a special marketing arrangement, leaving only 79, or 13% of the total retail outlets on a strictly independent basis which can handle any brand of petroleum products that they desire.
3. Only one major company is operating more than two retail outlets. This one major oil company operates 25 retail outlets itself. The other major companies have transferred the responsibility of operating their owned or leased retail outlets to so-called "Lessees".
4. Another major oil company operates 48 retail outlets through a wholly owned or controlled subsidiary.
5. Five major oil companies sold approximately 70% of the total gasoline sold in the District of Columbia during 1938. Three major oil companies sold approximately 55% of the total gasoline sold in the District of Columbia during 1938.
6. There is not a single strictly independent exclusive wholesale marketer of branded gasoline in the District of Columbia.

I am of the opinion that a survey made in most any section of the country would reflect conditions similar to those shown by The Washington Post Survey.

During the past few years several of the major oil companies here have turned over their owned and leased retail outlets to so-called "Lessees" with the expressed or implied understanding that these lessees would handle only the petroleum

products of the particular major oil company. This practice relieves the major oil company of certain taxes, employee and public liability in connection with the operation of these retail outlets, but the arrangement does not permit the lessee to operate in a free and independent manner as the major oil companies retain exclusive sale of their products by the retail outlet and comply with numerous sales policies and operating practices. In many cases the lessee is placed in a worse economic position than if he were employed to operate the outlet for the major company. Many of these lessee operators have been practically reduced to a situation as bad as a share cropper.

These same major oil companies are gradually but surely obtaining additional exclusive retail outlets for their products by inducing past and present independent lessees to enter into an exclusive selling arrangement in return for numerous valuable considerations such as: additional margin of profit; improvement to the property; free equipment; extension of credit and outright loans in cash.

If a major oil company is unable to induce an independent retail outlet to enter into an exclusive selling arrangement, the major oil company will in many cases purchase the property outright at a very high price, and then in some cases turn the property back to the original lessee on a lease based on an exclusive selling arrangement. There are enumerable instances where major oil companies have purchased a retail outlet at such a high cost that the outlet could not possibly reflect a profit, based on the same margin of profit allowed an independent operator.

The result of the above-mentioned practices and activities of the major oil companies in "freezing" retail outlets is that the independent wholesale marketers are finding that the potential retail outlets for their products are being gradually eliminated, and if these practices are permitted to continue, these wholesale marketers will be forced out of business entirely. The consumer is finding it increasingly difficult to purchase the quality products and brands which he desires, and many times he is forced to take inferior products because there is no independent retail outlet at hand or within a reasonable distance.

Without a sufficient number of independent retail outlets available and without responsible independent wholesale marketers, the independent refiner of gasoline, and particularly motor oil and motor lubricants, has no incentive to create public acceptance of a quality product or brand.

If the major oil companies are permitted to continue controlling the retail and wholesale marketing, they will also control the quality of the product that the consumer will be permitted to buy. This quality may be either good or bad.

It is strikingly evident to everyone who has been in the petroleum industry for any length of time that the major oil companies have for all practical purposes actual control of the market. The antitrust and other laws are being circumvented in devious ways of which your Department and the Federal Trade Commission are well aware.

In my opinion so long as the major oil companies are permitted to engage in their control of the marketing of petroleum products, they will also control the production, refining and transporting of these products. If these same major oil companies can take a profit on the handling of petroleum from the time it comes out of the ground until it reaches the consumer, they can well afford to spend almost any amount of money to control the retail and wholesale markets. This situation is gradually but surely forcing the independent retailer and wholesaler out of the picture, so far as the petroleum industry is concerned, and when this situation reaches a certain point in any trading area, the consumer is bound to suffer by reason of inferior products, higher prices, or both.

When one or more major oil companies gain control of a retail market, the profits from that market are largely transferred to some distant financial center, and the local trading area loses the benefit that would accrue from this profit if it remained in that trading area, as it would remain if the market were handled by numerous small retail and wholesale operators.

The history and record of the major oil companies and their concerted effort and success in controlling the petroleum industry is available to anyone who cares to read their history and record. Certainly this history and record is well known to the Department of Justice and the Federal Trade Commission. After having been engaged in the marketing of petroleum products as an independent operator for a period of seventeen years, I, as thousands of other independent marketers, have little to show for our efforts, and those who have not already given up will be forced to do so unless marketing is absolutely divorced from production, refining and transporting.

It is my opinion that when the consumer realizes that the major oil company trust controls one of our most important natural resources, they will demand proper legislation within the bounds of the Constitution. The Congress can and

should anticipate this demand now by formulating and passing proper legislation to divorce the businesses of production, refining, and transporting of petroleum products from that of marketing of petroleum products. Such legislation would benefit the consumer in many ways and thousands of independent marketers would enter the market with a reasonable assurance of a fair profit based on their ability and efforts.

Respectfully submitted.

L. L. Scott,
General Manager, Loughborough Oil Company.

Exhibit "A"

The following specific incidents in connection with practices and activities engaged in major oil companies have come to my attention. Names of the companies and individuals involved in these incidents are purposely omitted, but I have retained memoranda for the purpose of identifying the companies or individuals referred to in the event that it becomes necessary or desirable that these names be disclosed:

1. Major Oil Company "A" made the following deal with dealer "B": In consideration of dealer "B's" handling the product of major oil company "A" exclusively, "A" gave "B" an additional margin of profit on gasoline and use of a parking lot concession on the property adjoining "B's" property. Since that time independent wholesaler "C" has been unable to sell dealer "B" any petroleum products whatsoever, although wholesaler "C" had previously enjoyed a fairly large volume of business from dealer "B".

2. Major oil company "A" made the following transaction: Retail dealer "B" operated a filling station at a certain location for which he paid a rental of $600.00 a month. The gasoline sold by dealer "B" while he was operating this station as an independent "split" station averaged approximately thirty thousand gallons a month. This meant that dealer "B" was paying approximately 2¢ per gallon rent out of a gross margin of profit of 3½¢ per gallon. The operation was unprofitable to dealer "B", however, major oil company "A" acquired the lease on the basis of $600.00 a month rental, and since major oil company "A" has operated the outlet, the average gasoline sold per month has been approximately twenty thousand gallons. Dealer "B" feels that if the major oil company had to operate this station on the same basis as an independent dealer, it could not justify the rental paid.

3. Major oil company "A" acquired by lease a retail outlet which had previously been operated by an independent dealer at a rental of $450.00 per month. The major oil company subleased the property to an independent operator on the basis of 1¢ per gallon on gasoline sold, and it is contended that the average monthly rental paid by the individual to the major oil company is $180.00 per month.

4. Major oil company "A" has made the following deal with retail dealer "B": After the retail dealer had operated this property for a period of nineteen years, major oil company "A" leased the property from the owner at a rental of $250.00 a month, and then subleased the property back to dealer "B" on the basis of 1¢ per gallon of gasoline sold after improving the property at an estimate cost of $3,500.00 This potential outlet is thereby closed to independent wholesale marketers.

5. Major oil company "A" purchased a certain piece of real estate to be used as a retail outlet at a reported purchase price of $95,000.00. After acquiring the property major oil company "A" improved the property at an additional cost of $55,000.00. The potential gasoline sales from this outlet will not justify the investment on the same margin of profit that can be obtained by an independent retail dealer.

6. Major oil company "A" made the following deal with retail dealer "B": Major oil company "A" loaned dealer "B" $10,000.00 in cash in consideration of dealer "B's" handling the product of major oil company "A" exclusively. In addition major oil company "A" made valuable improvements to dealer "B's" property and extended dealer "B" credit on purchases. Major oil company "A" finally suffered a loss on the transaction of approximately $11,000.00.

7. Major oil company "A" made the following transaction with dealer "B": Dealer "B" rented a retail outlet for $350.00 per month. Major oil company "A" purchased the lease from dealer "B" for a consideration of

$5,500.00, and then released the outlet back to dealer "B" on the basis of 1¢ per gallon on the gasoline sold. Dealer "B" continued to operate the station handling the products of major oil company "A" exclusively, and during the period of time dealer "B" operated the station on this basis, for several years, dealer "B" paid an average rent of $140.00 a month to major oil company "A".

8. Retail dealer "B" leased a retail outlet from major oil company "A". Independent wholesaler "C" sold sixty gallons of motor oil to dealer "B", and after dealer "B" had received this oil, he requested independent dealer "C" to take the oil back and dealer "B" gave as his reason that a representative of major oil company "A" threatened to have his lease cancelled, and in addition would not make certain improvements to the property which major oil company "A" had promised dealer "B".

9. Retail dealer "B" operates a filling station which he leases from major oil company "A" under an exclusive arrangement. A representative of independent wholesaler "C" called on this dealer to solicit business for a particular brand of motor oil. The dealer advised the representative of the independent wholesaler that he would like very much to handle that particular brand of oil because he had a good many customers on gasoline who would not use any other brand of oil except this particular one. The dealer further stated that if he were permitted to handle this brand of motor oil, he could materially increase his profit.

10. Representative of independent wholesaler "A" called on retail dealer "B" who was handling exclusively the products of major oil company "A", and this dealer advised the representative of independent wholesaler "A" that he was afraid to handle any other brand of motor oil because if he did, major oil company "A" would clamp down on his credit and force him out of business.

I have memoranda on numerous other incidents similar to the above.
Respectfully submitted.

L. L. Scott.

Exhibit "B"

Washington, D. C.

Contents

Compiled by The Washington Post

Comparison of gasoline gallonage for which tax was paid in the District of Columbia—years 1935, 1936, 1937, and 1938

Accounts	1935	1936	1937	1938
Government accounts:				
Post Exch. Army Med. Cen		53,969	176,755	186,956
Post Exch. Bolling Field		37,815	112,336	95,028
Post Exch. Fort Humphreys		116,812	367,459	380,326
Post Exch. Headquarters Co		106,595	463,799	534,766
Q. M. U. S. Marine Corps		142,742	175,180	178,744
Q. M. U. S. Soldiers' Home	15,387	27,626	29,174	29,796
Supply Officer, Bellevue	50,984	40,823	42,658	41,592
Supply Officer, Bolling Field		788		
Supply Officer, Navy Yard	128,228	158,372	167,785	169,386
Supply Officer, U. S. N	113,166	118,730	118,000	122,622
Total Government Accounts	307,765	804,272	1,653,146	1,739,216
Non-Government accounts:				
American Oil Co	21,248,096	23,995,219	24,762,537	25,401,548
Atlantic Refining Co	1,310,308	1,013,937	92,688	95,080
Cities Service Oil Co	4,182,022	3,671,415	3,043,278	2,591,649
Continental Oil Co	2,204,262	2,701,786	2,838,822	2,723,163
Diamond Service Co	3,191,403	3,176,146	3,075,742	2,971,188
Federal Oil Co	1,905,035	2,681,321	3,862,391	4,364,557
General Refining Co	1,541,941	939,069	1,267,413	1,676,087
Gulf Oil Corp. of Penna	4,224,233	5,023,587	7,771,504	8,896,944
Homes Oil Co	1,941,174	2,582,038	2,466,228	2,281,657
May, R. L	261,530	279,279	281,907	281,011

Comparison of gasoline gallonage for which tax was paid in the District of Columbia—years 1935, 1936, 1937, and 1938—Continued

Accounts	1935	1936	1937	1838
Non-Government accounts—Continued.				
Otts Service Stations, Inc.				24, 135
Plunkert, Leo. B	1, 072, 942	1, 339, 160	1, 398, 192	1, 560, 385
Shell Union Oil Corp	5, 497. 548	6, 365, 541	6, 035, 087	5, 476, 409
Sherwood Brothers Co	2, 380, 703	2, 988, 685	3, 524, 455	3, 195, 428
Snappy Motor Fuel	949, 863	1, 079, 496	1, 269, 213	1, 319, 750
Spur Distributing Co	336, 250	247, 387	316, 484	457, 732
Standard Oil Co. of N. J	33, 397, 800	32, 936, 986	32, 596, 301	34, 709, 982
Steuart, L. P. & Bro	389, 014	431, 845	416, 584	323, 454
Sun Oil Co	5, 420, 631	6, 197, 328	6, 354, 643	6, 147, 384
Texas Co	9, 239, 207	9, 617, 427	12, 398, 295	12, 366, 387
Tide Water Asstd. Oil Co	1, 830, 020	1, 819, 331	1, 542, 977	1, 764, 719
United Petroleum Prod	84, 840	1, 686, 532	1, 941, 029	1, 780, 103
University Oil Co	744, 228	1, 155, 022	1, 422, 219	1, 252, 880
Washington Petro. Prod	5, 915, 089	7, 662, 238	9, 652, 793	10, 442, 111
Inactive Accounts	2, 932, 719	2, 041, 437	1, 609, 553	
Total non-Government accounts	112, 200, 864	121, 632, 212	129, 940, 335	132, 103, 743
Total gallons	112, 508, 629	122, 436, 484	131, 593, 481	133, 842, 959

Note: Undistributed additions not included above:
White House—March-Dec. 1936—1,060
Jan.-July 1937—1,803
May-Oct. 1938—1,601
Homes Oil Co.—Jan.-Dec. 1935—10,064
Steuart, L. P. & Bro. Years 1933-35—9,089
University Oil Co. May & June 1935—2,089

Gasoline Pumps, Outlets, and Stations, Washington, D. C., December 1938

Company	Pumps	Outlets: 100% Stations	Outlets: In Split Stations	Outlets: Total Outlets
American Oil Co	595	112	88	200
Cities Service Oil Co	75	15	6	21
Continental Oil Cos	90	22	3	25
Gulf Oil Corp. of Penna	253	49	8	57
Independent Cos	226	27	43	70
Shell Union Oil Corp	155	33	1	34
Sherwood Brothers Co	117	20	29	49
Sinclair Refining Co.[1]	85	4	41	45
Standard Oil Co. of N. J	707	140	48	188
Sun Oil Co	137	21	44	65
Texas Company	353	47	75	122
Tidewater Asst'd. Oil Co	61	9	20	29
Total Pumps & Outlets	2, 854	499	406	905
Total Stations [2]		499	[2] 120	[2] 619

[1] Washington Petroleum Products-agent.
[2] These figures exclude the duplication that arises through splitting stations.

The Washington Post, December 27, 1938.

Gasoline filling stations, Washington, D. C., as of November, 1938

Address	Name	Pumps	Gas
1827 Adams Mill Rd. N.W	Gulf Oil Corp	4	Gulf.
2600 Alabama Ave. S.E	Stadium Gas. Sta	2	Independent.
		1	Sun.
2801 Alabama Ave. S.E	Jordon Service Station	4	American.
103 Atlantic St. S.E	Williams Service Sta	2	American.
		2	Gulf.
		1	Independent.
		1	Sherwood.
		1	Sun.
		3	Texas.
4500 Arkansas Ave. N.W	Abbott's Valley Serv	4	American.
		4	Cities Service.
		2	Texas.
		2	Tidewater.
802 B. St. N.E	Wm. F. Hummer & Son	1	Standard.
3rd & B St. S.W	D. H. Bowly	3	Texas.
1336 Belmont St. N.W	Phillip Borehr	6	Shell.
1605 Bennings Rd. N.E	Mrs. C. N. Roseway	1	Standard (private).
1705 Bennings Rd. N.E	Honor Service Station	4	Sun
1733–35 Bennings Rd. N.E	Broida Service Station	2	American.
		1	Independent.
		2	Sherwood.
		1	Standard.
		2	Texas.
		1	Tidewater.
1950 Bennings Rd. N.E	J. O. Wilson	2	American.
		1	Independent.
		2	Standard.
		1	Sun.
		1	Texas.
		1	Tidewater.
1700 Bennings Rd. N.E	Homes Oil Co	6	Independent.
2101 Bennings Rd. N.E	Republic Oil Co	4	Independent.
		2	Sherwood.
2651 Bennings Rd. N.E	Brickerd Service Sta	4	Standard.
3339 Bennings Rd. N.E	Arthur Braylove	1	American.
		2	Independent.
3615 Bennings Rd. N.E	Chas. E. Carr	3	American.
		1	Sherwood.
		2	Standard.
4430 Bennings Rd. N.E	Lenerich Service Sta	4	American.
		2	Gulf.
		1	Independent.
		2	Sherwood.
		2	Sun.
		2	Texas.
		1	Tidewater.
4500 Bennings Rd. N.E	McGill & Wilson Inc	7	Standard.
4501 Bennings Rd. N.E	Musolino Rocco	3	Independent.
811 Bladensburg Rd. N.E	L. Baltimore	3	American.
814 Bladensburg Rd. N.E	L. Baltimore	4	American.
825 Bladensburg Rd. N.E	A. G. Dezendorf	5	Standard.
840 Bladensburg Rd. N.E	W. A. Harris	4	Gulf.
920 Bladensburg Rd. N.E	N. E. Motor Co	1	Sinclair.
1000 Bladensburg Rd. N.E	Jack & Jill Service Sta	6	Standard.
1145 Bladensburg Rd. N.E	Capitol Service	7	Texas.
1161 Bladensburg Rd. N.E	Clyde W. Emmart	3	Sun.
1201 Bladensburg Rd. N.E	R. G. Cordua	6	Continental.
1256 Bladensburg Rd. N.E	Millard, Purcell & Burton	4	Gulf.
1301 Bladensburg Rd. N.E	D. L. Jones	6	Texas.
1729 Bladensburg Rd. N.E	Schneiders Service	1	American.
		2	Standard.
		2	Sun.
		1	Tidewater.
		1	Independent.
1933 Bladensburg Rd. N.E	S & S Tire Exchange	3	American.
1944 Bladensburg Rd. N.E	M. T. Lewter	6	Shell.
2000 Bladensburg Rd. N.E	J. C. Berry	4	Sun.
2200 Bladensburg Rd. N.E	W. W. Floyd	4	Standard.
2210 Bladensburg Rd. N.E	Cut Rate Filling Station	8	Independent.
		1	Sherwood.
		1	Standard.
2315 Bladensburg Rd. N.E	C. W. Briscoe	3	American.
		6	Shell.
		1	Standard.
		2	Sun.
		2	Texas.
		1	Tidewater.
2401 Bladensburg Rd. N.E	P. W. Davies	8	Standard
2415 Bladensburg Rd. N.E	W. F. McBride	10	Standard.

Gasoline filling stations, Washington, D. C., as of November, 1938—Continued

Address	Name	Pumps	Gas
2507 Bladensburg Rd. N.E	Coolich Service	5	Sherwood.
2712 Bladensburg Rd. N.E	L. Baltimore	2	American.
		2	Sun.
3107 Bladensburg Rd. N.E	Jake Edelin	2	American.
		2	Independent.
		2	Sherwood.
		1	Standard.
		1	Sun.
		1	Texas.
		1	Tidewater.
6403 Blair Rd. N.W	Frank W. Dunn	4	Standard.
6925 Blair Rd. N.W	Dome Oil Co	3	Tidewater.
4501 Bowen Rd. S.E	McCarthy Standard Serv	6	Standard.
300 Butternut St. N.W	Old Colony Motor Co	2	American.
		1	Sherwood.
		1	Sinclair.
		1	Standard.
		1	Sun.
		2	Texas.
400 C. St. N.E	Gaylord Cunkelman	4	Shell.
500 C. St. N.E	L. Baltimore	5	American.
600 C. St. S.W	Johansen	4	Independent.
2500 Calvert St. N.W	Shoreham Hotel Serv	1	American.
		1	Standard.
2502 Calvert St. N.W	Shoreham Service Sta	8	Standard.
2701 Calvert St. N.W	Gulf Oil Co	8	Gulf.
3939 Canal Rd. N.W	Minute Service Sta	2	American.
		2	Standard.
		1	Sun.
		1	Texas.
		1	Tidewater.
258 Carol St. N.W	Glickman Service	2	American.
		1	Standard.
		2	Sun.
		1	Texas.
305 Cedar St. N.W	J. H. Norris	3	Shell.
4920 Central Ave. N.E	Capitol View Serv	2	American.
		2	Sinclair.
		2	Texas.
2155 Champlain St. N.W	Fleming Motor Corp	2	Standard.
2218 Champlain St. N.W	American Petroleum Co	4	Independent.
2329 Champlain St. N.W	Kaplan & Crawford	2	American.
2501 Champlain St. N.W	Calvert Auto Supply	5	Standard.
2201 Channing St. N.E	Community Service Sta	4	American.
2390 Champlain St. N.W	Ambassador Garage Inc	2	Standard.
1410 Church St. N.W	Nat. Motor Repair	1	American.
5508 Colorado Ave. N.W	Colorado Serv. St	2	American.
		2	Sinclair.
		3	Texas.
264 Concord Ave. N.W	C. J. Morris	4	Standard.
4515 Conduit Rd. N.W	Foxhall Serv. Sta	4	Continental.
4812 Conduit Rd. N.W	W. S. Wright	3	Standard.
4885 Conduit Rd. N.W	F. D. Shafer	3	Gulf.
5101 Conduit Rd. N.W	Midway Service Sta	2	American.
		2	Standard.
		1	Sun.
		1	Texas.
5443 Conduit Rd. N.W	E. A. Fox	4	Standard.
1300 Connecticut Ave. N.W	Goodyear Service Sta	8	Shell.
3000 Connecticut Ave. N.W	Cathedral Garage	5	Standard.
3501 Connecticut Ave. N.W	L. Baltimore	6	American.
3535 Connecticut Ave. N.W	E. C. Mover	10	Standard.
4201 Connecticut Ave. N.W	McDowell Bros. Inc	3	American.
		1	Sinclair.
		2	Sun.
		3	Texas.
4225 Connecticut Ave. N.W	Jameson Texaco Serv	5	Texas.
4301 Connecticut Ave. N.W	Harness Bros. Esso Serv	6	Standard.
4339 Connecticut Ave. N.W	Gulf Oil Corp	4	Gulf.
4401 Connecticut Ave. N.W	R. H. Garrett	3	Shell.
4444 Connecticut Ave. N. W	Skinker Bros	3	American.
		4	Sinclair.
		3	Texas.
4940 Connecticut Ave. N. W	Flenchum & Barron	4	Sun.
5001 Connecticut Ave. N. W	L. Baltimore	5	American.
5030 Connecticut Ave. N. W	Kraich's Esso Station	4	Standard.
5039 Connecticut Ave. N. W	Cherner Motor Co	4	Shell.
5532 Connecticut Ave. N. W	L. Baltimore	5	American.
261 Constitution Ave. N. W	Standard Oil Co	34	Standard.
621 D St. N. W	North Service Station	3	American.
624 D St. N. W	E. R. Altman	2	Standard.
909 D St. N. W	E. R. Altman	2	Gulf.

Gasoline filling stations, Washington, D. C., as of November, 1938—Continued

Address	Name	Pumps	Gas
4619 Deane Ave. N. E	O. T. Burrell	3	American.
		1	Continental.
		1	Independent.
		1	Sherwood.
		2	Sun.
		1	Texas.
		1	Tidewater.
4854 Deane Ave. N.E	Sam Seltzer	4	American.
6007 Dix St. N.E	Jas. H. Randall	1	Cities Service.
		1	Continental.
6201 Dix St. N.E	Victor Osin	3	Standard.
1311 E St. S.E	Absher Motor Co. Inc	2	Standard.
1504 E St. N.E	Knox Service Station	4	Sherwood.
513 E ST. N.W	R. L. Williams	2	Standard.
812 E St. N.W	Steele's Parking	2	American.
936 E St. N.W	Edlavitch Service Sta	9	Continental.
1200 E St. N.W	S & H Service Station	6	Standard.
1201 E St. N.W	Washington Garage Co. Inc	8	Standard.
1212 E St. N.W	Washington Garage Co	4	Standard.
2116 E St. N.W	Doc White's Filling Sta	5	Texas.
1560 Eckington Pl. N.E	Federal Oil Co	8	Independent.
		1	Sherwood.
		1	Standard.
25 Florida Ave. N.E	Pelican Filling Sta	1	Cities Service.
		2	Independent.
		1	Standard.
47 Florida Ave. N.E	W. E. McKenzie	4	American.
50 Florida Ave. N.E	Salvadore Apperti	3	Gulf.
101 Florida Ave. N.E	Hubert Leaman	4	Standard.
115 Florida Ave. N.E	Dodson's Service Sta	3	Sherwood.
140 Forida Ave. N.E	Frank E. Vernon	7	Sun.
301 Florida Ave. N.E	R. C. Walters	5	Shell.
401 Florida Ave. N.E	Camp Meigs Filling Sta	4	American.
407 Florida Ave. N.E	Coast In Auto Sales Inc	1	American.
		1	Sinclair.
		1	Texas.
1124 Florida Ave. N.E	Abraham Zarin	1	Independent
		2	Standard.
		1	Tidewater.
1396 Florida Ave. N.E	L. Baltimore	4	American.
1400 Florida Ave. N.E	Homes Oil Co	5	Independent.
22 Florida Ave. N.W	Alvin Milton	6	Independent.
200 Florida Ave. N.W	Pelican Filling Sta	3	Independent.
		1	Sun.
634 Florida Ave. N.W	General Refining Co	3	Independent.
725 Florida Ave. N.W	Beltram Barker	6	Standard.
813 Florida Ave. N.W	Acme Service Station	2	American.
901 Florida Ave. N.W	Denson & Bros	5	Cities Service.
910 Florida Ave. N.W	Albert Kirstein	5	American.
940 Florida Ave. N.W	Oscar J. Carrico	4	Gulf.
1715 Florida Ave. N.W	L. Baltimore	4	American.
1781 Florida Ave. N.W	Chemer Motor Co	8	American.
1783 Florida Ave. N.W	Engleberg's Serv. Sta	2	American.
		2	Standard.
2014 Florida Ave. N.W	Doc White's Filling Sta	4	Texas.
915 Franklin St. N.E	Wm. H. Earp	4	Texas.
122 G. St. N.W	Jack Dalton	4	American.
638 G. St. N.W	A. G. Dezendorf	2	Standard.
701 G. St. N.W	Lord Baltimore	3	American.
2006 Georgia Ave. N.W	C. C. Shives	1	Independent.
2045 Georgia Ave. N.W	Ball Park Serv. Station	2	American.
		1	Sun.
		2	Standard.
2101 Georgia Ave. N.W	Wm. H. Brown	6	Standard.
2204 Georgia Ave. N.W	Harry J. Jackson	2	Shell.
2312 Georgia Ave. N.W	Super Auto Laundry	2	American.
2920 Georgia Ave. N.W	Milton's Service Sta	3	American.
		1	Independent.
		1	Sinclair.
		1	Texas.
2921 Georgia Ave. N.W	Col. Rd. & Ga. Ave. Serv	4	Texas.
3128 Georgia Ave. N.W	Rupert Prince	2	Standard.
3230 Georgia Ave. N.W	Henry H. Harper	4	Gulf.
3421 Georgia Ave. N.W	Parks System Serv. Sta	4	Continental.
3426-28 Georgia Ave. N.W	Lord Baltimore	4	American.
3619 Georgia Ave. N.W	Clark's Sherwood Serv	4	Sherwood.
3701 Georgia Ave. N.W	York Service Sta	2	American.
		3	Standard.
		1	Texas.
3728 Georgia Ave. N.W	Reliable Serv. Sta	4	American.
3730 Georgia Ave. N.W	Joe Rode	4	American.

Gasoline filling stations, Washington, D. C., as of November, 1938—Continued

Address	Name	Pumps	Gas
3734 Georgia Ave. N.W	E. H., C. F., & J. Miller	3	American.
		2	Sun.
		2	Texas.
		1	Tidewater.
3801 Georgia Ave. N.W	R. A. Fowler	4	Standard.
5013 Georgia Ave. N.W	Georgia Ave. Service Sta	11	Cities Service.
4140 Georgia Ave. N.W	S. A. Taylor	10	Shell.
4203 Georgia Ave. N.W	Gulf Oil Corp	5	Gulf.
5120 Georgia Ave. N.W	Gulf Oil Corp	6	Gulf.
5230 Georgia Ave. N.W	D. J. Dunigan, Inc	8	Standard.
5410 Georgia Ave. N.W	Jefferson Service Sta	5	Sun.
5831 Georgia Ave. N.W	J. E. Bowman	4	Standard.
5908 Georgia Ave. N.W	Doc White Filling Sta	4	Texas.
5917 Georgia Ave. N.W	Brightwood Auto Supply	4	American.
		2	Sinclair.
		2	Texas.
5949 Georgia Ave. N.W	Brightwood Super Serv	2	American.
		2	Standard.
		1	Sun.
		5	Texas.
		2	Independent.
6300 Georgia Ave. N.W	Cut Rate Filling Sta	10	Independent.
6312 Georgia Ave. N.W	Sheridan Serv. Sta	2	Gulf.
		4	Sherwood.
		1	Sun.
		1	Texas.
6323 Georgia Ave. N.W	Owens Motor Co. Inc	1	Standard.
6350 Georgia Ave. N.W	Josiah Ellis	6	Standard.
6401 Georgia Ave. N.W	Lord Baltimore	7	American.
6419 Georgia Ave. N.W	J. W. Hoge	5	Shell.
6431 Georgia Ave. N.W	Hubbard Service Sta	5	Tidewater.
6503 Georgia Ave. N.W	Haines Service Sta	3	American.
		2	Sinclair.
		2	Texas.
6545 Georgia Ave. N.W	R. E. Rupert	5	Texas.
7530 Georgia Ave. N.W	J. E. Bowman	5	Standard.
7730 Georgia Ave. N.W	O. F. Horn	7	Cities Service.
7819 Georgia Ave. N.W	Kidwell's Service Sta	4	Standard.
7812 Georgia Ave. N.W	Gulf Oil Corp	5	Gulf.
1240 Good Hope Rd. S.E	Mandell Chevrolet Co	4	Conoco.
1301 Good Hope Rd. S.E	Mr. Moller	3	American.
		2	Sinclair.
		3	Texas.
1337 Good Hope Rd. S.E	Mazzulla Motors Inc	6	Texas.
1350 Good Hope Rd. S.E	V. T. Flood	5	Gulf.
2705 Good Hope Rd. S.E	J. D. Goulden	4	Standard.
4931 Grant St. N.E	O. W. Madden	2	Standard.
5219 Grant St. N.E	Sidney S. Bourne	2	Independent.
		1	Sun.
		1	Texas.
24 H St. N.E	Price's Garage	2	Standard.
65 H St. N.E	Cities Service Sta. #4	4	Cities Service.
145 H St. N. E	Seller's Esso Station	6	Standard.
201 H St. N.E	J. L. Lee	4	Gulf.
306 H St. N.E	Stewart Motor Co	3	Continental.
600 H St. N.E	R. G. Dunne	1	Independent.
		3	American.
		2	Standard.
		1	Texas.
601 H St. N.E	King Service Station	4	Texas.
924 H St. N.E	Chas. Oshinsky	1	American.
1302 H St. N. E	Red Devil Ser. Sta	4	Independent.
		3	Texas.
1410 H St. N. E	Herman B. Sykes	4	Standard.
36-38 H St. N. E	S. L. Kasparek	2	American.
614 H St. N. W	Call Carl Inc	1	American.
		3	Texas.
621 H St. N. W	Addison H. Bowie	1	American.
625 H St. N. W	Call Carl Inc	1	Texas.
801 H St. N. W	Esseno Auto Supply Co	2	American.
		2	Standard.
		1	Sun.
923 H St. N. W	Chas. Daly Jr	2	Standard.
2101 11th St. N. W	J. H. Richardson	4	Continental.
4100 Hunt Pl. N. E	E. A. Driscoll	2	American.
		1	Independent.
		1	Sun.
		1	Texas.
4134 Hunt Pl. N. E	Irving Axelrod	3	American.
1100 I St. N. W	Hohensee Motors Inc	1	Independent.
		4	Gulf.
200 Indiana Ave. N. W	Brittons Serv. Station	4	Sherwood.

Gasoline filling stations, Washington, D. C., as of November, 1938—Continued

Address	Name	Pumps	Gas
201 Indiana Ave. N. W	Colonial Serv. Sta	4	Texas.
1419 I St. N. W	A. G. Dezendorf	2	Standard.
488 Indiana Ave. N. W	W. B. Ellis	2	Standard.
1417 Irving St. N. W	Arcade Pont. Co	3	Texas.
1429 Irving St. N. W	Irving St. Garage	2	Standard.
1437 Irving St. N. W	Addison Chevrolet Sales Co	1	Standard.
69 K St. N. E	Lord Baltimore	3	American.
1219 K St. N. E	American Tire Co	2	American.
316 K St. N. W	Chas. W. Cannon	3	Standard.
441 K St. N. W	New Center Mkt. Dealers Assn	3	American.
510 K St. N. W	Wooland & Brain	3	Shell.
519 K St. N. W	Samuel Mandy	6	Sherwood.
601 K St. N. W	Lord Baltimore	3	American.
1116 K St. N. W	David R. Lehman	2	American.
		2	Standard.
		1	Sun.
		1	Texas.
1301 K St. N. W	Firestone Service Sta	1	American.
		6	Gulf.
		1	Sinclair.
		1	Texas.
		1	Tidewater.
1411 K St. N. W	A. G. Dezendorf	2	Standard.
2021 K St. N. W	Douglas McCorssin	4	Cities Service.
3131 K St. N. W	Wash. Petroleum Pro. Co	2	American.
		1	Sinclair.
		7	Texas.
201 K St. S. W	J. C. Barsock	2	Independent.
1640 Kalorama Rd. N. W	2400 Garage	2	Standard.
1701 Kalorama Rd. N.W	Associate Garages	1	American.
		1	Sinclair.
1729 Kalorama Rd. N.W	M. A. Stokes	4	Gulf.
1731 Kalorama Rd. N.W	Cherner Motor Co	4	American.
4100 Kansas Ave. N.W	Lord Baltimore	4	American.
925 Kenilworth Ave. N.E	Astor Filling Station	3	Independent.
450 Kennedy St. N.W	Gulf Oil Corp	6	Gulf.
101 L St. N.W	Mid City Service Center	2	American.
		2	Standard.
		1	Sun.
		1	Texas.
1524 L St. N.W	Dupont Motor Repair	2	Standard.
1423 L St. N.W	Hill & Tibbitts	4	Continental.
1619 L St. N.W	Texaco Station	4	Texas.
1624 L St. N.W	Lord Baltimore	4	American.
1625 L St. N.W	Torrey Motor Co	3	Sherwood.
1630 L St. N.W	Standard Garage Inc	2	Standard.
1701-05 L St. N.W	Mayflower Acc. & Gar. Co	3	American.
		1	Independent.
		4	Standard.
		1	Sun.
1746 L St. N.W	George C. McCloy	4	Standard.
1828 L St. N.W	Fred Jones	3	Standard.
1815 L St. N.W	Orr's Limousine Serv	4	Standard.
1836 L St. N.W	Fred Jones	2	American.
1845 L St. N.W	Cities Serv. Sta. #16	4	City Service.
2015 L St. N.W	McKee Auto Serv. Inc	2	American.
2047 L St. N.W	Reliable Auto Service	1	American.
4260 Lane Pl. N.E	Fred W. Dunn	1	Standard.
		1	Sun.
		1	Texas.
936 Liberty St. S.W	G. Perry Leishear	4	American.
30 M St. N.E	Sterrett Operating Serv	1	Standard.
101 M St. N.E	Diamond Serv. Co. Inc	16	Shell.
310 M St. N.E	Radio Cab Corp	4	Standard.
719 M St. N.W	A. C. Young	2	Texas.
800 M St. N.W	M. E. Carrico	4	Gulf.
801 M St. N.W	J. I. Kingman	2	American.
		3	Sinclair.
		1	Texas.
1301 M St. N.W	Lord Baltimore	3	American.
1632 M St. N.W	Emerson & Orme	4	Standard.
1844 M St. N.W	Gulf Oil Corp	6	Gulf.
1900 M St. N.W	Lord Baltimore	3	American.
1901 M St. N.W	C. A. Offert	4	Standard.
1923 M St. N.W	L. G. Herriman	1	American.
		2	Sinclair.
		1	Texas.
2020 M St. N.W	Haley's Inc	2	American.
2100 M St. N.W	Lord Baltimore	3	American.
2114 M St. N.W	Russell A. Horstman	4	Standard.
2125 M St. N.W	Wm. S. Pratt	5	Continental.
2401 M St. N.W	Cal Young's Gulf Sta	4	Gulf.
2722 M St. N.W	Lord Baltimore	4	American.

Gasoline filling stations, Washington, D. C., as of November, 1938—Continued

Address	Name	Pumps	Gas
2731 M St. N.W	Potomac Tire Co	1	Cities Service.
2819 M St. N.W	William & Baher	1	American.
2831 M St. N.W	Terminal Transfer Co	3	Cities Service.
2927 M St. N.W	A. G. Dezendorf	7	Standard.
3000-2 M St. N.W	Lord Baltimore	3	American.
3040 M St. N.W	Parkway Motor Co	1	Continental.
3279 M. St. N.W	Jack G. Hines	4	Texas.
3294 M St. N.W	La Brosse, David	3	Sun.
3301 M St. N.W	J. M. Phillips	4	Gulf.
3317 M St. N.W	Lord Baltimore	5	American.
3327 M St. N.W	Weaver's Esso Station	4	Standard.
3601 M St. N.W	Foster's Service	5	Standard.
20 M St. S.E	H. S. Hatton	3	American.
65 M St. S.E	Major Service Station	1	Independent.
		3	Standard.
300 M St. S.E	Naval Service Station	1	Cities Service.
		4	Independent.
900 M St. S.E	Elmer L. Davis	2	American.
134 M St. S.W	Abraham Borah	2	American.
		2	Gulf.
		2	Standard.
		1	Sun.
643-45 Maryland Ave. N.E	F. H. Steger Motor Co	1	Sinclair.
1400 Maryland Ave. N.E	E. M. Rumsey	2	Standard.
510 Maryland Ave. S.W	T. E. Salkeld	5	Gulf.
601 Maryland Ave. S.W	Bernard Swann	2	Independent.
		3	Tidewater.
604 Maryland Ave. S.W	Lee G. Tucker	4	Texas.
490 Maryland Ave. S.W	Homes Oil Co	7	Independent.
		1	Sherwood.
		1	Sun.
1100 Maryland Ave. S.W	Homes Oil Co	8	Independent.
200 Massachusetts Ave. N.E	Gulf Oil Corp	5	Gulf.
16 Massachusetts Ave. N.W	H. Hall & L. Perkings	5	Standard.
49 Massachusetts Ave. N.W	Jack's Plaza Serv. Sta	4	Standard.
101 Massachusetts Ave. N.W	A. R. Taylor	6	Gulf.
201 Massachusetts Ave. N.W	Fastnaught's Serv. Sta	4	Standard.
218 Massachusetts Ave. N.W	R. D. Pallcano	1	Cities Service.
		3	Independent.
232 Massachusetts Ave. N.W	Carolina Service Station	4	Sun.
239 Massachusetts Ave. N.W	Lord Baltimore	5	American.
601 Massachusetts Ave. N.W	Swanson Service Station	5	Tidewater.
2112 Massachusetts Ave. N.W	H. L. Gessford	1	American.
4861 Massachusetts Ave. N.W	Gulf Oil Corp	6	Gulf.
1000 Michigan Ave. N.E	Brookland Garage	4	American.
		3	Sinclair.
		3	Texas.
10th & Michigan N.E	Gulf Oil Corp	7	Gulf.
703 Minnesota Ave. N.E	Edelin's Serv. Sta	8	Standard.
811 Minnesota Ave. N. E	Anna F. Garrett	3	American.
		2	Independent.
		1	Sherwood.
		1	Sun.
		1	Texas.
3054 Mt. Pleasant St. N.W	Eubank's Serv. Sta	2	American.
		4	Standard.
		1	Texas.
3130 Mt. Pleasant St. N.W	Gulf Oil Corp	6	Gulf.
3150 Mt. Pleasant St. N.W	Herbert's Tire & Battery	4	American.
		2	Standard.
		2	Sun.
		3	Texas.
37 N. St. N. W	J. E. Chapman Estate	1	Independent for private use.
421 N St. N.W	McIntosh	7	Independent.
601 N St. S. W	River View Service Sta	4	American.
		2	Sinclair.
		3	Texas.
2721 Naylor Rd. S.E	Connors & Foster	3	American.
		1	Sinclair.
		4	Texas.
1100 N. Hampshire Ave. N.W	Roger's Serv. Sta	2	Shell.
1200 N. Hampshire Ave. N.W	N. Hamp. Ave. & M. St. Sta	3	Texas.
3670 N. Hampshire Ave. N.W	Helm's Serv. Sta	4	Sherwood.
5420 N. Hampshire Ave. N.W	Kennedy Serv. Sta	9	Texas.
400 New Jersey Ave. N.W	Washington Garage Co	5	Standard.
415-23 New Jersey Ave. N.W	W. T. Nishwita	4	American.
510 New Jersey Ave. N.W	L. M. Stallings	4	American.
933 New Jersey Ave. N.W	Lord Baltimore	3	American.
1305 New Jersey Ave. N.W	Featherstone's Filling Sta	3	American.
1533 New Jersey Ave. N.W	Henry Barrington	4	Standard.
1739-44 New Jersey Ave. N.W	C. C. Pierpont	4	Texas.
453 New Jersey Ave. S.E	Leon J. Edelin	4	Standard.

Gasoline filling stations, Washington, D. C., as of November, 1938—Continued

Address	Name	Pumps	Gas
1201 New Jersey Ave. S.E	H. C. Mockabee	5	Independent.
3 New York Ave. N.E	C. H. Clarkson	4	Shell.
4 New York Ave. N.E	Gulf Oil Corp	4	Gulf.
76 New York Ave. N.E	Continental Oil Co	3	Continental.
79 New York Ave. N.E	Lord Baltimore	3	American.
100 New York Ave. N.E	Pohlman Serv. Sta	2	American.
		1	Sun.
		2	Texas.
1230 New York Ave. N.E	Spur Distributing Co	3	Independent.
1231-37 New York Ave. N.E	Federal Oil Co	8	Independent.
		2	Sherwood.
1301 New York Avenue N.E	A. G. Dezendorf	4	Standard.
1369 New York Ave. N.E	Aaron Bernstein	4	American.
1765 New York Ave. N.E	Capitol Service Sta	10	Texas.
1943 New York Ave. N.E	Newbill's Gas Sta	5	Standard.
222 New York Ave. N.W	C. R. Burner	4	Standard.
452 New York Ave. N.W	Tony Tornatora	1	Independent.
		2	Sherwood.
459 New York Ave. N.W	Acme Radiator & Fender Wks	2	Standard.
600 New York Ave. N.W	T. E. Salkeld	3	Texas.
601 New York Ave. N.W	R. L. Wilberger	3	Texas.
1312 New York Ave. N.W	National Inv. Corp	2	American.
		1	Shell.
		4	Standard.
		2	Sun.
		2	Texas.
2001 New York Ave. N.W	Jonny's Service Sta	6	Texas.
1750 Nichols Ave. S.E	J. D. Price	4	Sun.
1800 Nichols Ave. S.E	Mandell Chevrolet Co	4	Continental.
1801 Nichols Ave. S.E	Pat's Service Sta	3	Shell.
2255 Nichols Ave. S.E	E. D. Lamb	4	Standard.
2323 Nichols Ave. S.E	W. E. Stevens	3	City Service.
		1	Independent.
2755 Nichols Ave. S.E	Congress Hgts. Serv. Sta	1	American.
		4	Standard.
		2	Sun.
		2	Texas.
2900 Nichols Ave. S.E	S. A. Himelfarb	3	Independent.
		2	Sherwood.
		1	Texas.
2917 Nichols Ave. S.E	All American Serv. Sta	4	American.
3011 Nichols Ave. S.E	Dukes Serv. Sta	3	Gulf.
3027 Nichols Ave. S.E	Shell	3	Shell.
3101 Nichols Ave. S.E	Bowman's Service Sta	5	Tidewater.
3709 Nichols Ave. S.E	Fort Carrol Serv. Sta	2	Standard.
		1	Sun.
		2	Texas.
3900 Nichols Ave. S.E	J. D. Gouldin	6	Standard.
420 N. Capitol St. N. W	Herbert H. Hall	2	Standard.
1125 N. Capitol St. N. W	Steffey's Serv. Sta	8	Texas.
701 N. Capitol St. N.E	Connor Serv. Sta	4	Sherwood.
901 N. Capitol St. N.E	E. A. Murphy	6	Shell.
1218 N. Capitol St. N. W	General Refining Co	3	Independent.
1411 N. Capitol St. N.E	W. H. Dicks	3	Texas.
714 O St. N.W	H. G. Parks	3	Independent.
717 O St. N.W	Tate's Service Sta	2	American.
		1	Sinclair.
		2	Standard.
		1	Texas.
1440 P St. N.W	L. P. Stewart Inc	1	American.
		1	Sherwood.
		2	Standard.
		1	Sun.
		3	Texas.
1467 P St. N.W	Gibson Garage	1	American.
		1	Sinclair.
2200 P St. N.W	Gulf Oil	10	Gulf.
1370 Park Rd. N.W	Northside Parking Co	2	American.
1401 P St. N.W	M. T. Darnes	3	Standard.
2100 Pennsylvania Ave. N.W	Minute Service Sta	2	American.
		1	Continental.
		1	Sherwood.
		2	Sinclair.
		3	Standard.
2600 Pennsylvania Ave. N.W	L. E. Bunting	4	Standard.
2616-18 Penn. Ave. N.W	Snappy Serv. Sta	6	Independent.
329 Penn. Ave. S.E	E. A. Hayden	1	Texas.
339 Penn. Ave. S.E	W. T. Pryse	1	Standard.
628 Penn. Ave. S.E	Rickard & Davis	2	American.
1500 Penn. Ave. S.E	S. C. Hudson	4	Standard.
658 Penn. Ave. S.E	Rieley's Garage	1	American.
		2	Sherwood.
823 Penn. Ave. S.E	Lord Baltimore	9	American.

Gasoline filling stations, Washington, D. C., as of November, 1938—Continued

Address	Name	Pumps	Gas
1024 Penn. Ave. S.E	Chas. V. Dessez	6	Texas.
1248 Penn. Ave. S.E	Schwarzman	1	American.
		2	Sherwood.
		2	Standard.
		2	Sun.
		1	Texas.
		1	Tidewater.
1552 Penn. Ave. S.E	Lord Baltimore	3	American.
2239 Penn. Ave. S.E	Simms Service	4	Standard.
2244 Penn. Ave. S.E	Connor & Foster Inc	3	American.
		3	Sinclair.
		4	Texas.
2300 Penn. Ave. S.E	Bell's Service Station	4	Gulf.
2500 Penn. Ave. S.E	Great-Way Serv. Inc	3	Sun.
2509 Penn. Ave. S.E	Anderegg's Shell Serv	4	Shell.
3201 Penn. Ave. S.E	Branch Ave. Serv. Sta	4	Standard.
1101 Potomac Ave. S.E	Gulf Oil Corp	4	Gulf.
1057 Potomac St. N.W	Clarence Brown	1	Continental.
5 Q St. N.W	Herbert Barnes	4	Standard.
131 Q St. N.W	Sterrett Operating Serv	3	American.
		1	Sinclair.
		2	Texas.
211 Q St. N.W	Sterrett Operating Serv	5	Standard.
501 Q St. N.W	Francis Morrow	2	American.
		2	Standard.
2516 Q. St. N.W	George Sheridan	1	American.
		1	Sinclair.
2698 Q St. N.W	Lord Baltimore	2	American.
1200 R. St. N.W	Lee Hendricks	4	Sun.
3001 R. Island Ave. N.E	Ed. Negus	2	Sherwood.
306-10 R. Island Ave. N.W	Lord Baltimore	6	American.
400 R. Island Ave. N.E	Lord Baltimore	7	American.
415 R. Island Ave. N.E	Harry W. Payne	7	Standard.
424 R. Island Ave. N.E	Pearson Sunoco	3	Sun.
604 R. Island Ave. N.E	R. Island Ave. Serv. Sta	3	American.
		3	Standard.
		3	Texas.
		1	Tidewater.
710 R. Island Ave. N.E	A. G. Dezendorf	4	Standard.
720 R. Island Ave. N.E	Howland & Burgess	3	Gulf.
900 R. Island Ave. N.W	Sheriff Motor Co	3	American.
915 R. Island Ave. N.E	Lakeman's Serv. Sta	2	American.
		3	Sinclair.
		2	Texas.
1001 R. Island Ave. N.W	Sidney Pearson	3	Standard.
1401 R. Island Ave. N.E	Triangle Motor Co	6	Continental.
1503 R. Island Ave. N.E	Brentwood Shell Serv. St	3	Shell.
1544 R. Island Ave. N.E	Wm. F. Sheen	6	Texas.
1611 R. Island Ave. N.E	C. H. Holleman	3	Shell.
1736 R. Island Ave. N.E	Lord Baltimore	6	American.
1800 R. Island Ave. N.E	Jos. S. Wood	4	Standard.
2106 R. Island Ave. N.E	Highway Service Sta	4	American.
2380 R. Island Ave. N.E	Miles Gas Sta	2	American.
		2	Sinclair.
		2	Texas.
3008 R. Island Ave. N.E	Paul Hammer	7	Tidewater.
3010 R. Island Ave. N.E	Shell	3	Shell.
2919 R. Island Ave. N.E	Capt. Serv. Sta	10	Texas.
3038 R. Island Ave. N.E	Square Deal Serv. Sta	4	Sun.
3015 R. Island Ave. N.E	Donald Ricker	4	Gulf.
3101 R. Island Ave. N.E	Harold Decker	4	Cities Service.
3103 R. Island Ave. N.E	F. M. McLaughlin	8	Standard.
3131 R. Island Ave. N.E	Norman L. Brown	4	Texas.
3200 R. Island Ave. N.E	Lord Baltimore	4	American.
700 R. Island Ave. N.W	A. G. Dezendorf	5	Standard.
1018 R. Island Ave. N.W	Earnest Serv. Station	2	Gulf.
1100 R. Island Ave. N.W	DeSonza	6	Sherwood.
1803 R. Island Ave. N.E	R. H. Mudd	4	Sun.
5017 Rock Creek Church Rd. N.E	Rex Powell & Bros	3	Standard.
5016 Rock Creek Church Rd. N.W	Russell Morgan	3	American.
1801 S St. N.W	Lord Baltimore	4	American.
2250 Sherman Ave. N.W	S & W Service Station	3	Shell.
2270 Sherman Ave. N.W	Lee Hendricks	3	Sun.
2337 Sherman Ave. N.W	Premier Cab Serv. Sta	6	Shell.
2525 Sherman Ave. N.W	Warfield Motor Co	2	Sinclair.
2800 Sherman Ave. N.W	Milton's Service Sta	2	Sinclair.
		1	Texas.
2612 Sherman Ave. N.W	E. S. House	1	Independent.
		2	Standard.
2824-26 Sherman Ave. N.W	Lord Baltimore	4	American.
3006 Sherman Ave. N.W	Sherman's Serv. Sta	3	Independent.
1119 S. Capitol St	Saunders & Sayles Sta	3	Standard.

Gasoline filling stations, Washington, D. C., as of November, 1938—Continued

Address	Name	Pumps	Gas
1236 S. Capitol St	Union Coal Co	3	Gulf.
625 T St. N.W	Homes Oil Co	3	Independent.
1801 T St. N.W	B. W. King	4	Standard.
1446 U St. N.W	A. G. Dezendorf	7	Standard.
1612 U St. N.W	H. B. Leary & Bros	2	Gulf.
101 Upshur St. N.W	Thor Higgins	5	Texas.
1625 U St. N.W	J. J. Morris	2	Standard.
1108-14 Vermont Ave. N.W	Hill & Tibbitts	2	Continental.
1122 Vermont Ave. N.W	Vermont Garage	1	American.
1713 Vermont Ave. N.W	Scheper Super Serv	4	Texas.
2017 Virginia Ave. N.W	Logan Motor Co	4	Standard.
2021 Virginia Ave. N.W	Auditorium Filling Sta	2	American.
		3	Standard.
		3	Sun.
		2	Texas.
2110 Virginia Ave. N.W	Konsum Inc	3	Sinclair.
2137 Virginia Ave. N.W	Gulf Oil Corp	7	Gulf.
2331 Virginia Ave. N.W	Lad Mills	4	Standard.
2424 Virginia Ave. N.W	Economy Service Sta	6	Shell.
2535 Virginia Ave. N.W	Lord Baltimore	3	American.
701 Virginia Ave. S.E	Ben Borsky	3	American.
801 Virginia Ave. S.E	Arnold B. Lintz	3	Texas.
2708 Virginia Ave. N.W	Higgins Service Sta	2	American.
		1	Sherwood.
		2	Standard.
		2	Sun.
		2	Texas.
		1	Tidewater.
241 Virginia Ave. S.W	Albert C. Allen	4	Cities Service.
215 Warren St. N.W	A. G. Smith	1	Texas.
671 Water St. S.W	Chas. Laner	4	Continental.
721 Water St. S.W	Lord Baltimore	7	American.
1801 W. Virginia Ave. N.E	F. J. Cresmond	3	American.
1063 Wisconsin Ave. N.W	Wisconsin Motors Inc	1	Sherwood.
1258 Wisconsin Ave. N.W	Pioneer Garage	2	Standard.
1539 Wisconsin Ave. N.W	Lad Mills	12	Standard.
1576 Wisconsin Ave. N.W	H. C. Hoffman	4	Texas.
1601 Wisconsin Ave. N.W	J. Y. Weber	7	Gulf.
2584 Wisconsin Ave. N.W	Lord Baltimore	4	American.
4301 Sheriff Rd. N.E	F. L. Watkins Inc	2	Standard.
2911 Wisconsin Ave. N.W	Lord Baltimore	5	American.
4030 Wisconsin Ave. N.W	Parkway Motor Co	4	Continental.
4130 Wisconsin Ave. N.W	Paul Hamm	4	Tidewater.
4244 Wisconsin Ave. N.W	S. C. Willoughby	4	Standard.
4307 Wisconsin Ave. N.W	John T. Rains	4	Shell.
4319 Wisconsin Ave. N.W	Gulf Oil Corp	4	Gulf.
4326 Wisconsin Ave. N.W	Cities Service Sta. #8	4	Cities Service.
4530 Wisconsin Ave. N.W	J. E. McKeever	5	Sun.
4532 Wisconsin Ave. N.W	Hilltop Service Sta	2	American.
		3	Sinclair.
		2	Texas.
4601 Wisconsin Ave. N.W	R. M. Bradshaw	4	Standard.
4727 Wisconsin Ave. N.W	Wm. B. Wrenn	6	Texas.
4810 Wisconsin Ave. N.W	Bill's Service	4	Sherwood.
4900 Wisconsin Ave. N.W	American Service Center	4	American.
4901 Wisconsin Ave. N.W	Clark's Service Sta	2	Sun.
5130 Wisconsin Ave. N.W	Jack's Service Sta	6	Standard.
5220 Wisconsin Ave. N.W	Paul Hicks Inc	4	Texas.
5252 Wisconsin Ave. N.W	McDowell Bros	3	American.
		3	Sinclair.
		3	Texas.
5300 Wisconsin Ave. N.W	W. Johnson Service Sta	4	Shell.
5301 Wisconsin Ave. N.W	Bartemeir W. End Auto Sup	2	American.
		2	Independent.
		2	Sherwood.
		3	Standard.
		3	Sun.
		1	Tidewater.
5340 Wisconsin Ave. N.W	Wisconsin Ave. Ser. Sta	4	Cities Service.
919 First St. N.W	Washington Petroleum Prod	1	American.
		2	Sinclair.
		1	Texas.
741 First St. N.W	General Refining Co	3	Independent.
1124 Third St. N.E	Louis A. Litman	2	American.
		2	Sinclair.
		1	Texas.
201 Third St. S.W	Firestone Serv. Store	2	Gulf.
		2	Texas.
		1	Tidewater.
415 Third St. S.W	Spark's Service Sta	1	American.
		1	Independent.
516 Third St. S.W	Gilbert Inoff	1	Independent.

Gasoline filling stations, Washington, D. C., as of November, 1938—Continued

Address	Name	Pumps	Gas
900 Fourth St. N.E	Smith & Stevens Serv	2	American.
		1	Sherwood.
		1	Sinclair.
		1	Standard.
		1	Sun.
		1	Texas.
1218 Fourth St. N.W	Amato Coal Co	3	Independent.
		2	Tidewater.
6911 Fourth St. N.W	Takoma Motor Co. Inc	6	Sherwood.
244 Fourth St. S.W	Lazear	3	Texas.
529 Fourth St. S.W	Horace D. Pack	4	American.
463 F St. S.W	D. G. S. Service Station	2	Sherwood.
731 Fourth St. S.W	Lord Baltimore	4	American.
1223 Fifth St. N.W	Red White & Blue Serv	2	Independent.
1701 Fifth St. N.W	P. A. Tolson	4	Standard.
216-22 Sixth St. N.W	Lord Baltimore	4	American.
1705 Sixth St. N.W	Lord Baltimore	4	American.
1817 Seventh St. N.W	Howard Service Sta	2	American.
220 Seventh St. S.W	Lord Baltimore	4	American.
511 Seventh St. S.W	Sam's Service Station	3	American.
700 Seventh St. S.W	R. A. Richard's	4	American.
		2	Sinclair.
		3	Texas.
1110 Seventh St. S.W	J. D. Hill	1	American.
		1	Standard.
300 Eighth St. N.E	Lord Baltimore	4	American.
420 Eighth St. N.W	Steele's Parking Lot	2	Continental.
518 Eighth St. N.W	Doggett Service Sta	2	American.
1137 Eighth St. N.W	Ervin E. Mayo	4	Standard.
1801 Seventh St. N.W	Wm. T. Ferguson	2	American.
		2	Sinclair.
		1	Texas.
2009 Eighth St. N.W	Diamond States Garage	1	American.
514 Eighth St. S.E	Spitler, C. D	1	American.
		1	Texas.
712 Ninth St. N.W	J. Crawford	4	Standard.
801 Ninth St. N.W	Gulf Oil Corp	6	Gulf.
900 Ninth St. N.W	Federal Oil Co	6	Independent.
		1	Sherwood.
700 Ninth St. S.W	Marine Serv. Sta	4	Independent.
2133 Tenth St. S.W	Red's Service Center	2	American.
518 Tenth St. N.E	Wade's Auto Service	1	American.
309-11 Tenth St. S.W	Rector S. Green	1	Cities Service.
901 Eleventh St. N.W	S & H Standard Serv	8	Standard.
1900 Eleventh St. N.W	Jack Service Station	2	Gulf.
		3	Independent.
		2	Sherwood.
		1	Sun.
2200 Eleventh St. N.W	Fleet Service Station	2	American.
		1	Sinclair.
		1	Texas.
3300 Eleventh St. N.W	I. L. Hockenberry	4	Standard.
232 Eleventh St. S.E	F. W. Mattingly	4	American.
1102 Eleventh St. S.E	Conrad J. Herzog	5	Standard.
1110-12 Eleventh St. S.E	Lord Baltimore	3	American.
1260 Eleventh St. S.E	Davis Service Sta	3	American.
1300 Eleventh St. S.E	Clark Keene	4	Sherwood.
141 Twelfth St. N.E	L. P. Stewart Inc	1	Standard.
		1	Texas.
2800 Twelfth St. N. E	R. C. McGee	5	Gulf.
3015 Twelfth St. N. E	12th St. Service Station	4	Sherwood.
800 Twelfth St. N.W	A. G. Dezendorf	6	Standard.
1232 Twelfth St. N.W	Chrene Bros	2	Standard.
813 Thirteenth St. N.E	S. A. Clements	4	Tidewater.
1016 Thirteenth St. N.W	Federal Gas & Oil Co	8	Independent.
		2	Sherwood.
1100 Thirteenth St. N.W	R. R. Gaunt	5	Standard.
1301 Thirteenth St. N.W	Gulf Oil Corp	6	Gulf.
4101 Thirteenth St. N.W	Radel & Kibler Serv. Sta	4	Standard.
4127 Thirteenth St. N.W	Lord Baltimore	5	American.
1101 Fourteenth St. N.W	Gulf Oil Corp	6	Independent.
1617 Fourteenth St. N.W	Jack's Auto Serv. Sta	8	Standard.
1740 Fourteenth St. N.W	Lord Baltimore	4	American.
1801 Fourteenth St. N.W	Crosstown Auto Supply	3	Gulf.
1820 Fourteenth St. N.W	D. W. Meredith	4	Continental.
1820 Fourteenth St. N.W	Consolidated Taxi Service	2	Continental.
2025-27 Fourteenth St. N.W	Lord Baltimore	4	American.
2126 Fourteenth St. N.W	G. W. Black	5	Texas.
2201 Fourteenth St. N.W	Meyer's Sunoco Serv	3	Sun.
2221 Fourteenth St. N.W	Jacob Gossin	6	American.
2301 Fourteenth St. N.W	F. R. Spicer	5	Standard.
2419 Fourteenth St. N.W	Washington Rubber Co	5	Continental.
3001 Fourteenth St. N.W	Linfoot's Service Sta	6	Standard.
3037 Fourteenth St. N.W	Lord Baltimore	10	American.
		1	Independent.

Gasoline filling stations, Washington, D. C., as of November, 1938—Continued

Address	Name	Pumps	Gas
3125 Fourteenth St. N.W	Gulf Oil Corp	5	Gulf.
3540 Fourteenth St. N.W	Logan Motor Co	8	Standard.
4331 Fourteenth St. N.W	Hawkins & McNish	2	Sun.
4501 Fourteenth St. N.W	J. L. Schaffert	6	Standard.
4521 Fourteenth St. N.W	Robey's Serv. Sta	3	Sherwood.
4531 Fourteenth St. N.W	C. B. Sanford	4	Gulf.
4601 Fourteenth St. N.W	Buchanan Serv. Sta	4	American.
24 Fifteenth St. N.E	Smallwood & Whitney	5	Texas.
409 Fifteenth St. N.E	Eastwood Serv. Sta	3	American.
700 Fifteenth St. N.E	Metropolitan Petroleum Co	6	Standard.
1125 Fifteenth St. N.W	Auto City Parking Co	3	Standard.
1515 Fifteenth St. N.W	D. P. Gentilucci	4	American.
1525 Fifteenth St. N.W	R. G. Hoffman	4	Shell.
284 Fifteenth St. S.E	Hurst's Serv. Sta	2	American.
		1	Sherwood.
		1	Sinclair.
		2	Standard.
		1	Sun.
		1	Texas.
		1	Tidewater.
401 Fifteenth St. S.E	Lord Baltimore	4	American.
715 Seventeenth St. N.W	Automark Service Sta	1	Standard.
1135 Seventeenth St. N.W	A. G. Dezendorf	2	Standard.
1409 Seventeenth St. N.W	Harvey Butler	4	Standard.
2001 Seventeenth St. N.W	Gish Garage	2	Standard.
3426 Eighteenth St. N.E	R. T. Hite	6	Shell.
1101 Eighteenth St. N.W	Doctor's Service Sta	4	Sherwood.
1109 Eighteenth St. N.W	Logan Motor Co	2	Standard.
1146 Eighteenth St. N.W	Barry-Pate Motor Co	2	Texas.
2424 Eighteenth St. N.W	Kaplan & Crawford	2	American.
2017 Eighteenth St. N.W	Bartemeir's Uptown Auto	3	American.
		3	Sinclair.
		3	Texas.
1102 Nineteenth St. N.W	Columbia Serv. Sta	6	Texas.
1127 Nineteenth St. N.W	Harry Himelfarb	5	Independent.
		1	Sherwood.
401 Twentieth St. N.W	Gulf Oil Corp	8	Gulf.
935 Twentieth St. N.W	Lord Baltimore	4	American.
1126 Twentieth St. N.W	Pohankas Motor Co	3	Standard.
1140 Twentieth St. N.W	N. D. Butler	3	Standard.
1159 Twentieth St. N.W	Homes Oil Co	6	Independent.
1164–66 Twentieth St. N.W	Barrett Supply Co. Inc	4	Tidewater.
1215 Twentieth St. N.W	Otis Garage	2	Standard.
1216 Twentieth St. N.W	Skinker Motor Co	1	American.
		1	Sinclair.
		1	Texas.
1105 Twenty-first St. N.W	W. F. Anderson Inc	4	Standard.
1121 Twenty-first St. N.W	Lee D. Butler	2	Sun (private).
1222 Twenty-second St. N.W	Capitol Cadillac Co	1	American.
1256 Twenty-second St. N.W	Union Service Center	8	American.
1242 Twenty-fourth St. N.W	Packard Wash. Motor Car Co	4	Standard.
16th & Taylor St. N.W	Dome Oil Co	3	Tidewater.
S. E. cor. 15th & Church St. N.W	J. Wheeler	4	Gulf.
4th & Florida Ave. N.E	Clark's Serv. Sta	4	Texas.
7th & Water Sts. S.W	Finchum & Barron	4	Sun.
R. Island Av. & N. Jersey N.W	Gulf Oil Corp	5	Gulf.
6th & R. Island Av. N.W	Shell Union Oil Corp	3	Shell.
14th & Water St. S.W	Cities Service Station	4	Cities Service.
24th & Bennings Rd. N.E	Cities Service Station	4	Cities Service.
Bennings & Anacostia Rd. N.E	Penfield Bros	4	Texas.
2nd & Constitution Ave. N.W	Washington Petroleum Pro	6	American.
		4	Sinclair.
		4	Texas.
15th & K Sts. N.W	Investment Bldg. Garage	2	Standard.
212 Madison Alley	The Atlantic Garage	6	Continental.
3rd & K Sts. N.W	3rd & K Service Station	2	American.
		2	Sinclair.
		1	Texas.
14th & Md. Ave. N.E	Jim Darby Service	3	Shell.
Water & G Sts. S.W	Sanborn, Inc	9	Standard.
61st & E. Capitol Sts. S.E	R. D. Rhodes	2	Independent.
3408 Sherman Ave	Konsum Inc	1	Independent.
		2	Sinclair.
6th & New York Ave. N.W	Stewart Motor Co	2	American.
		2	Standard.
		1	Sun.
		6	Texas.
26th & E Sts. N.W	Washington Cab. Assn	4	Shell.
29th & M St. N.W	Wisconsin Motors Inc	1	Sherwood.
4th & New York Ave. N.W	Crow's Service Station	4	American.
6th & Water Sts. S.W	A. H. Gregory	1	Standard.

Exhibit No. 1225

Statement Prepared for the Temporary National Economic Committee by B. W. Ruark, General Manager, Motor and Equipment Wholesalers Association

The Motor and Equipment Wholesalers Association is a national trade organization of independent automotive wholesalers with members in the District of Columbia and 45 states. It also includes members in Canada. Total membership, exclusive of Canadians, is approximately 350.

The term "independent" is used to contrast its members with nationally integrated organizations such as car factories, tire companies, chain stores and major oil companies, some of which are also engaged in the distribution of automotive merchandise.

In number, and based on published lists of persons purporting to be wholesalers, the Association composes about 10% of those doing a wholesale automotive business in some extent. This is exclusive of such organizations as tire companies, car makers, major oil companies, chain stores, etc.

Generally speaking, the members deal in automotive accessories, replacement parts, garage and service station equipment and other general supplies used in the repair and maintenance of motor vehicles. Some few also handle goods separate and apart from the automotive trade, e. g., house radios, electrical appliances, hardware, etc.

In so far as our information goes, there are no available data upon which an authoritative estimate of the percentage of total volume of automotive goods handled by members can be based. Such data to be conclusive would have to result from a nation-wide survey participated in by all of the important interests in the industry. No survey, as far as we know, has been made. The Department of Commerce figures, we think, are the most reliable, but they are not segregated as to indicate relative percentages for the various sections of the industry. Where volume of car makers, tire companies, major oil companies, chain stores, etc., and independent wholesalers not in the membership of this Association, is taken into consideration, it would appear that percentage of volume done by members is considerably less, likely very considerably less, than one-half of the total in the industry.

The members of this Association, in fact all independent automotive wholesalers, are in competition with some or all of the major oil companies in the sale of automotive products for resale by dealers and in the handling of service station equipment for use by dealers. In such competition they are confronted with two major problems.

Based on information supplied the Association by its members and which we believe to be correct, various major oil companies dictate and control the purchases of "leased and licensed" or "lease and agency" stations. Frequent reports are to the effect that operators of such stations are not permitted to buy certain merchandise, competitive to that offered by the major oil company whose brand or brands of accessories and motor oil they handle. It is frequently alleged, and we believe the allegation to be a true one, that operators of such stations are intimidated under threat of cancellation of franchise for such brand or brands of gasoline and motor oil. The products which it is alleged by members of this Association that station operators are not permitted to buy except from sources designated by their oil company connections include tires, batteries, fan belts, lamp bulbs, spark plugs, windshield wipers, etc. Instances are reported in which such merchandise, when purchased despite prohibition, is bootlegged by the operator, that is, it is hidden away from sight of the oil company representative.

In illustration of the situation mentioned, we insert copy of letter apparently issued by and bearing the signature of a representative of the Ohio Oil Company as follows:

Bellevue, Ohio, *June 4, 1938.*

"All Stations,
Bellevue District.

Gentlemen: Appreciating the fact that business conditions are abnormal at the present time, I have been instructed by the management to inform each operator in writing, that; effective the 15th of this month without exception no products of any nature which are duplicate of those sold by The Ohio Oil Company will be permitted to be sold through their stations.

I have taken the matter up with them regarding the merchandise which you now have on hand relative to disposition, and they have advised me that the

disposal will be up to you. I fully appreciate that some of our accessory items may be a little higher in price than similar items purchased from competitors, at the same time I am sure you will agree with me that the company spends considerable money to keep your station in a presentable condition. What does our competitor do toward helping you other than selling the products and collecting the money?

I further realize that you are going to have reasons, and alibis, why you should buy from this person and that person, but, the answer is still no. I trust that the above will be understood and appreciated in the spirit for which it is intended. This matter has been put directly up to me and I have faith and confidence in you men to the extent that I am sure you will cooperate to the fullest extent in the above matter.

Yours very truly,

ML:eb (Signed) MYRL S. WALLY."

It is our opinion that the practice described adversely affects the public interest. Manufacturers of products distributed by members of this Association generally advertise extensively and build consumer acceptance and demand for such products. The public has a right to be able to secure such products from persons holding themselves forth to serve the public. When denied that right, motorists are put to inconvenience in securing goods they want or are compelled to accept substitutions. The more or less "spot need" basis upon which many automotive products are bought, accentuate substitution. Obviously, the interest of manufacturers are adversely affected and this carries through to the personnels of their organizations. In addition automotive wholesalers who are of a right entitled to do business with persons desiring to do business with them are denied such right.

The economic growth of America has been built upon the free flow of goods. Tying-in and restrictive agreements, particularly where such are involuntary upon part of one of the parties, tends to restrict such free flow of goods. With major oil companies controlling and dominating preferred locations throughout the country, such restrictive agreements tend to centralize distribution and further, in view of the high degree of centralization in the petroleum industry, result in a trend toward monopoly. The resulting limitation of competition places an undue and unjustified burden upon manufacturers, wholesalers and retailers and in its ramifications adversely affects the well-being of their hundreds of thousands of employees. It also promotes absentee ownership and control and that we believe is repugnant to American ideals and institutions. The practice cited restricts opportunity for independents to remain in business and condemns to the bondage of a job controlled by absentee ownership.

The second major problem in this connection with which members of this Association, as well as other independent automotive wholesalers are faced, is in the sale and/or handling of garage and service station equipment by the major oil companies.

For information supplies by members, it is the practice of some major oil companies to supply equipment such as lifts, jacks, lubrication equipments, etc., to station operators on a basis believed to constitute unfair competition for the purpose of inducing said operators to handle the particular oil company's petroleum products. Sometimes this is supplied by the major oil companies at a price equal to or below cost of identical equipment to automotive wholesalers. If we are correctly informed by manufacturers of such equipment the price at which it is supplied by major oil companies is equal to or below the cost of it to those oil companies.

In other instances it is reported that the equipment is supplied by major oil companies gratis or upon a lease basis with rental being so low as to all intents and purposes to shut out competition except on the part of other integrated oil companies, thus in many instances very effectively closing the door to independent establishments.

It appears that in some instances equipment is paid for by the station operator in ratio to his sales of gasoline. For example, a certain quantity of equipment is bought amounting to a certain total figure. Payment for same is made on basis of adding a certain amount to each gallon of gasoline purchased by the operator from the major oil company. This method also has the effect of centering handling of equipment into the hands of nationally integrated major oil companies. It also presents a type of competition very difficult for independent distributors to meet.

Apparently oil companies follow the practice of using profits in their refining, production, pipeline and other operations to enter into competition with others

in the sale of equipment in such a way that those others not having access to profits on other operations are unable to meet.

Instances proving the existence of the practices stated can be cited. We believe such practice to constitute commercial bribery. If present laws do not prohibit such practices, we believe that laws adequately prohibiting them should be enacted.

We haven't made a sufficiently detailed study to be able to make recommendations as to the type of laws that should be enacted to assure a free and open market. We have asserted our belief that existing conditions tend toward monopoly. While this may be countered with the argument that there is competition between and among major interests in the petroleum industry, we believe that it may be a "multiple" or "class" monopoly wherein a class of distributors of other types through unfair and un-American practices. Thus competition is definitely limited to a much fewer number of persons, and this makes possible a close working arrangement between those fewer persons and thus creates a monopoly in effect even though it might not on the face of things appear as such or be technically defined as such. It is therefore our opinion that present antitrust laws should be amended in such way as is necessary to prevent a "class" or 'multiple" monopoly such as we believe conditions are tending toward in the distribution of the type of products mentioned in this statement.

Possibly, national legislation prohibiting sales below cost as definitely defined, or legislation make practices set forth commercial bribery, or divorcement legislation, would be some of the proper means of prohibiting the said practices in an effective way.

In support of the information given in this statement we attach, and make a part of this statement, copy of tabulation of returns on questionnaire sent to members of this association in December 1938.

TABULATION OF REPLIES TO SPECIAL BULLETIN #125 TO MEMBERS OF MOTOR AND EQUIPMENT WHOLESALERS ASSOCIATION COVERING CERTAIN PRACTICES OF SOME MAJOR OIL COMPANIES

NOTE.—Said Bulletin was sent to approximately 360 persons. 142 replies were received, about 40%. The tabulation, as will be noted, shows response to each question asked. Attention is called particularly to Section 8, entitled "Further Remarks".

Queston (1):

Have a large number of the filling stations in your area which were formerly operated by major oil companies been turned over to the former "Managers" and now claim to be "independent owned stations"?

Summary of replies:

129 report—yes. 3 report—not many.

"This is a universal practice."

"This has been true in Iowa for about 4 years or since the inception of the 'Iowa Plan'."

"About 75%."

"Shell, Texaco, Gilmore and General Petroleum claim to have done so."

"Operators in our territory have always bought in their own name and not in the name of the oil company."

"Especially Shell."

"Only a limited number of these but many stations not owned by the oil companies are operated under Lease and Agency contracts which give the oil company almost as much authority as on owned stations."

"Leased to controlled owners."

"By managers and operating under leases, etc."

"Practically all outlets formerly operated by large companies."

"We are under the opinion that a large number of the stations have sold out to their former managers."

"Supposedly *leased* to individuals."

Question (2):

(a) Concerning these former "company owned" and now "independent" stations—do they now act as though they were truly independent and free to purchase whatever brands of merchandise they please?

Summary of replies:

110 report—no. 20 report—to a very limited degree. 2 report—except for tires and batteries.

"More so than formerly."
"They have very much the same brands now."
"Claim that if they buy from oil company they can get better cooperation."
"Not with many items—only such as chemical lines, oils, greases, etc."
"Definitely not."
"Not in most cases."
"Do as told or lose their job."
"Claim they are still compelled to buy from certain sources."
"No; except Texaco Stations."
"No. Texaco seems more liberal, Shell and General are served through a contracted wholesaler covering most of the lines the dealer handles. Texaco is handled through a contract wholesaler also but it seems to be on a limited number of lines."
"The operators and owners of all company lease controlled stations are afraid to buy from the independent wholesaler."
"Absolutely not."
"In the main, many have to purchase 'Oil Company' approved accessories."
"As a whole, Oil Companes exert influence."
"Very few, if any."
"Absolutely not; Standard Oil Company by far the worst."
"Still obey orders of 'suggestions' of Oil Company Supervisors."
"Emphatically 'No.'"
"Positively not."
"We have been told by a number that they have to purchase from the oil company."
"They act independent but not on purchasing. Claim they have to use Company products."
"No; frankly telling you their leases are for only thirty days."
"Only independent stations in our territory that can buy where they please are the Sun stations."
"Majority still buy from oil companies."

(*b*) Or, as far as you can see and judge, is there the same and as actual a control of purchases, brands handled and policies of operation as existed before they changed to so called "independent" stations?

Summary of replies:

118 report—yes. 6 report—no. 6 report—very little change.

"There is no definite information given to the lessee by the owning company but they are given to understand that their lease is subject to 30-day cancellation if they do not follow the company's 'suggestions' as to what accessories they should buy and where."
"Some control in most cases."
"In our opinion, controlled purchases."
"Oil companies still control them through their leasing arrangements."
"In all cases they use company brands nearly 100%."
"To a large extent this is true. Some service stations dare not handle such simple items as flash lights and cells except those sold by the oil company."
"There is evidence of such control."
"Conditions about same in majority of cases, operator afraid to do anything without approval as it might affect his lease."
"Controlled just as much as before."
"No difference."
"Practically the same attitude when oil company is selling the same type accessory."
"No material change whatever, except possibly a little more bootlegging of forbidden products, i. e., products not produced or marketed by their major oil company gasoline suppliers."
"Main items must be purchased from oil companies."
"On some lines there is coercion still being used."
"The control in most cases is as great as before."
"The oil companies try to keep them as they were."
"Not as noticeable."
"Over 50% of their activity is controlled."
"We understand brands are suggested to stations such as tires, batteries and in the case of chemical line, oils, greases, etc., more than suggestions are made."
"It is my understanding they have a 6-month cancellation clause in their contracts and more or less hold these accounts for their own merchandise."

Question (3):

Where one of these "now independent" stations carries the petroleum products and/or the accessories of supplies marketed by one of the major oil companies:

(a) Are you able to sell them any of your Petroleum Merchandise?

Summary of replies:

88 report—no. 1 reports—yes. 22 report—occasionally.

"We sell Hyvis to Sinclair dealers. Hyvis oil is owned and controlled by Sinclair."

"They even resent a jobber selling oil or lubricants."

"Only if dealer has order and then it is for that amount only."

"Operators are told they cannot handle any other petroleum products."

"Unable to sell them if they have a similar item sold by the company."

"Very little; then they are afraid to display and normally merchandise it."

"Can sell no petroleum products to these lessors openly."

"Only items not carried or marketed by the oil company."

"Nationally advertised oil only."

(b) If you can sell them, do they publicly display and advertise it or do they market it on a bootleg basis—keep it out of sight until and unless called for by a customer?

74 report—bootleg basis, keeping it out of sight until called for. 4 report—it is properly displayed.

"Aggressive lessees will bootleg your products."

"Only on a limited pick-up business."

"Will permit them to buy items demanded by public but will not permit them to be displayed."

"Bootleg out products and when caught have to return them for credit."

"If we do sell it is because a customer is there waiting for them and it does not go on the dealer's shelf."

"In many cases we sell them only small amounts for far under counter basis."

"Some instances they display and some not."

"Find they keep it out of sight."

"All except Standard Oil stations will display."

"50% bootleg."

(c) Are you able to sell them supply and accessory items which compete with the major oil company private branded products such as tires, batteries, etc.?

96 report—no. 23 report—occasionally.

"They are afraid to buy from us."

"In some cases."

"Not from Phillips Petroleum Company or Standard Oil Company."

"Only pick-ups as they are not allowed to have same."

"Nothing that conflicts with private brands."

"Not as many as we think we should sell."

"Not Standard, Mid-Continent, Shell or Phillips."

"When they will buy."

"Only to fill special order."

"Major oil company will not permit them to handle."

"Only where they must have at once."

(d) If unable to sell any of these products what is the usual reason given as to why they will not buy your brands of merchandise?

"Oil companies forbid purchases, or take offense at it. Dealers will not risk this offense."

"Because they have been told they must buy such items from their major company."

"Major will not permit them to handle competitive merchandise according to dealer's statements."

"Oil companies insist on lessees handling their brands which they sell."

"We are told they must buy from refiner."

"Will affect bonuses or not allowed if found in station. Station will be rented to a party who will do as told."

"Because of fear of cancellation by the oil company."

"Claim major oil company road men insist on purchases from oil company."

"The lease will be cancelled."

"Pressure is usually evident."

"On batteries the dealers have been told that if they will stock the oil company line, that they, the oil company, will furnish them a battery charger on a no charge basis. We just lost two accounts on batteries by the oil company furnishing the dealer with a battery charger."

"Varied answers."

"Presistence of the oil company to use their brand."

"Rebates and constant pressure put on by oil companies."

"A few claim they prefer a standard line with consistent quality acting as though were 'sold' on merchandise they handle."

"Compulsory to buy brands submitted by lessor."

"They state that they must obtain permission from the major under whom they operate."

"Lease will not be renewed by oil company."

"The supervisors don't like it and intimate the operators might suffer for it.'

"Feel obliged to buy from oil company for many favors shown them by the oil company."

"Major oil company will not give same cooperation if purchases made elsewhere."

"They receive special bonus and discount when purchased from oil company."

"They tell us they are forced to buy from parent company."

"They sign a contract not to buy from any other source."

"Major oil company wishes them to sell their own brands so that all stations are uniform in products they sell."

"They appear to have a fear of buying outside."

"Want to earn 5% for $100 monthly purchases."

"Their leases contain a 24-hour cancellation charge for any infractions of the regulations of which the handling of unspecified merchandise or suppliers is one."

"They will lose their short term lease. The major oil company will not give them another air compressor or lift. (These lifts and air compressors were given by major oil company itself and are not bought from jobber.)"

Question (4):

Have you or your salesmen ever been told by these "independents" that their lease or connection with this major oil and gasoline supplier would be put in jeopardy if they purchased and/or displayed other and competing products?

Summary of replies:

92 report—yes. 12 report—no. 17 report—intimated but not actually told so by operator.

"We have had some cases of merchandise being purchased from and later returned with this being given as the reason. Happened recently."

"One man lost lease because he bought 5 gals. Rislone from us."

"Very rarely is this alibi given."

"Station dealers don't or won't talk."

"Many, many times."

Question (5):

Have such statements been occasional or frequent?

Summary of replies:

75 report—frequently. 22 report—occasionally.

"Occasionally because we quit working them."

"Whenever we try to sell them our brands."

Question (6):

Does your business experience and personal observation lead you to feel that these stations are just about as rigidly controlled by their major oil company suppliers now as they were before they became "independents"?

Summary of replies:

"Some of the better and larger operators run their business as they see fit, but many seem to be entirely under the domination of the majors."

"Yes, see the detailed field testimony in the case of A. L. Maxwell, North Carolina Tax Official, versus Shell Union in Chain Store Tax Case—carried to U. S. Supreme Court and won by North Carolina."

"Except Texaco."

"I should say the name was only changed."

"It is our opinion that insofar as purchases are concerned, the supervision is as rigid."

Question (7):

What is your experience in competition with major oil companies in the sale of equipment?

"Several of the major companies will supply lubricating equipment, lifts and air compressors at cost for cash or at a slight mark up when purchased by one of their lessors on a gallonage basis."

"In the past year we have worked up several large orders only to have the oil company (Standard) take away the business from us. In one case our customer purchased Alemite Grease Guns at 30% through Standard Oil. Another the equipment was purchased by Shell and turned over at Shell's cost. Another case was Standard Oil (after we had the dealer change his specifications from Alemite and Curtis to Aero and Globe) purchased the equipment and put it in—the dealer says he purchased—Standard Oil says it is theirs. Regardless, the equipment is used to further the oil company's lease and promote their sales."

"We had an order for equipment signed—a cash deposit paid and the merchandise ordered when Texaco came along and put it in for a five year contract."

"This situation seems to be extremely bad in this territory. We seriously doubt that proper list or dealer prices are being maintained and if they are on a financing basis the dealer is so completely tied up to use the company's products by a most liberal financing plan, we believe without down payment, that it makes it almost impossible to sell either equipment or merchandise following to these accounts. We understand that they are furnishing equipment and in some cases remodeling stations and accepting payment in the form of ½¢ per gallon of their sales and we are even told there is no contract written on the equipment itself."

"Unless you happen to have the line they (the oil company) favors you just don't get it."

"Equipment is given so freely or sold at manufacturer cost by major oil companies to almost all filling stations that the normal sale of equipment by equipment jobbers is almost a thing of the past with us."

"Very bad. We have had many instances where we did all the promotional work, especially on hydraulic lifts, and the oil companies would step into the picture at the last minute and take the sale at exactly our jobber's cost."

"Yes, at the beginning of the 'Iowa Plan' the majors agreed to—not sell equipment—in a very few months, however, they were again furnishing equipment, bootlegging at first and now it is open. It is generally sold to the dealers at cost."

"On major items such as lifts, compressors and so forth, we usually get left out."

"Some are okey."

"Clean at this time. We are getting the support of major companies on lubrication equipment."

"In most cases they seem to be working with us. In many cases have helped us to get business (this does not apply to gas pumps)."

"Lubrication equipment, hoist and pumps are sold by most majors at prices, installed, that we cannot meet. The manufacturers of this equipment could correct this if they desired."

"Very bad. Filling station equipment is usually supplied at our cost."

"With the exception of Pure Oil Company, who are supplying equipment to dealers on a rental basis, conditions are better now than they have been for a number of years."

"Some major oil companies have sold equipment to stations at a cost equal to our (distributors) cost, we are unable to compete with major oil companies on equipment for their 'independent' stations."

"We cannot compete, they buy at our cost and supply their leased stations at cost, on their car dealer campaign they furnish at cost or 5% above cost and allow the obligation to be liquidated over a period of from 3 to 5 years on a gallonage basis ranging from ¼ to 1¢ per gallon depending on estimated volume."

"We cannot compete."

"This condition getting better by cooperation with the companies."

"We find that they are giving away lifts, air compressors, etc., to their better dealers so they will not buy from others. We find also that they permit wholesale bulk agents to buy at automotive jobbers cost through the oil company, which equipment the bulk agent would have bought from automotive parts jobbers. The bulk agent often gives this equipment away."

"Through one way or another the dealer gets the equipment cheaper or on longer terms than we can give."

"We have lost all sales due to oil company's selling or purchasing for customer at jobber's cost—some lend the money to the customer and make him buy from them."

"Very sad."

"It is impossible to compete with major oil companies as in many cases they will sell equipment and let the account pay for it at the rate of 1¢ per gallon of gas purchased. We have also found that they will sell equipment allow as long as 5 years to pay for it providing the account will sign a 5-year exclusive agreement with the particular major oil company who furnishes the equipment."

"We find that they come down, price your equipment, make you believe that they want you to have the business, then in the end furnish it themselves. We had one instance where a representative come down to inform us that they were not giving away any more equipment. The next week this same company gave away over $400 worth of lubricating equipment to one man. How's that?"

"Satisfactory."

"Lately competition has eased up considerable, outlook is there will be less in future."

"Sell at manufacturer cost so as to show the customer they are doing them a favor."

"We have not been bothered with them selling at a lower price than regular, but in many cases they have loaned the operator pieces he needed."

"In this area oil companies usually supply lifts, air compressors and pumps but do not engage to any extent in the sale or handling of other equipment. They even give us assistance in selling equipment."

"Orders actually taken by us were cancelled when oil company advised they would supply station at their cost."

"The major oil companies in this section have discontinued the sale of equipment and we do not have trouble along that line."

(The balance of the answers to this question are all similar to the ones hereon noted.)

(8) *Further remarks:*

"Suggest some immediate action to avoid a serious condition. Oil companies as jobbers are a detriment to fair trade and even distribution of automotive supplies."

"Since the above outlined condition must be corrected nationally, it would be a further detriment to become involved locally."

"30% of our potential equipment business to oil companies last year."

"This subject of major oil operations in this area is too involved to explain in a few words. The defensive programs of the majors are increasing rapidly and we will soon have no business."

"They operate as 'leased' stations but actually every operation is controlled and daily reports are required with every transaction same as before they were 'leased' to operators. Certainly requires some attention from Government as leases are nothing except method of avoiding Social Security Tax and Chain Store Tax. Oil companies resort to minor excuses to break leases if other lines are handled. Excuse of dirty rest room or most any other violation of their many rules and requirements. Believe most any station operator will reveal necessary facts if questioned in proper manner with assurance his name will not be revealed."

"Shell Petroleum Corporation has just discontinued selling special brand accessories to leased stations and have made a deal with local jobbers throughout the United States to supply nationally advertised merchandise they distribute to their stations. Their own salesmen will take orders (Shell) Company will get commissions and jobber will shop."

"There seem to be a slight let-down on the rigid policy of some of the majors recently in their insistence of complete control."

"We sold one dealer an assortment of seat covers, and the following day he told our representative he would have to return them as a representative of the refiner had called and told him they would have to buy from the refiner. That same day I talked to the manager of the automotive division of the refining company and told him that it would be my suggestion that he send his representative to the dealer at once and instruct the station operator that he could keep the covers. This he did."

"We have had some of these tell us they wish they could buy from us as they could get better service and in some cases a better price."

"Besides the salesmen, the tank wagon drivers of Phillips Petroleum Company are offered premiums for the sale of accessories. The customers are also given certificates to apply against household appliances."

"We could go into a lot of details and further evidence which would take pages to write."

"For a while (about 2 years ago) the situation cleaned up considerably but now, however, it's worse than ever as all the major oil companies are guilty."

"Present system simply enables major oil companies to operate without paying Social Security Tax, Chain Store Tax, Workmen's Compensation Insurance, but they still control the operation of stations."

"Equipment should be a major portion of our business but they ruin it at every opportunity. Every refiner should be made to do the same as they have to do on Prestone—maintain the price. They have only one interest in equipment and that is to make it a football."

"Had a Gulf station which was an "Independent" station change hands due to complaint that present operator bought too many supplies from us. This is a concrete example."

"Believe the best way to control a thing of this kind is through the manufacturer who sells the equipment to the oil companies and the jobbers."

"In our immediate territory 'two counties' an unbiased survey shows that company controlled petroleum outlet exceed independents at the ratio of 3 to 1. This may be one reason why 6 independent, local wholesalers of automotive supplies have folded up in the last few years. We know of cases (current) in which controlled dealers have to pay more for the identical merchandise than we would regularly be charged."

"Unless retail marketing is prohibited to major oil companies and pipe lines separated from other operations by them and severe penalties placed and 'in terrorism' threats held over retailers—we very soon will have very little, if any, truly independent small operators."

"The Standard Oil and Union Oil we do not believe have made any changes whatever in the operation of their stations controlling them completely as so far as we know pay their operators a salary and bonus of some kind on their sales."

Question (9):

Will you name the "major oil companies" involved in your experience upon which replies to the questionnaire are based?

78 report—Standard
40 report—Texas Oil Co.
37 report—Gulf Refining
35 report—Shell
23 report—Pure Oil
22 report—Sinclair
19 report—Phillips
17 report—Sun
10 report—Atlantic
10 report—American
10 report—Skelly
9 report—All companies
9 report—Cities Service
8 report—Richfield
7 report—Tide Water
7 report—Continental
6 report—Esso
5 report—Union
4 report—Pennzoil
3 report—Conoco

3 report—Hickock
2 report—Associated
2 report—Magnolia
2 report—Wofford
2 report—Imperial
2 report—Mobile
1 reports—Oil & Refining
1 each: General Petroleum
Humble
Indian
Republic
South Penn
Gilmore
Pan American
Deep Rock
Super Test
British American
B. A. Oil
North Star
McCall

"Standard Oil and Union have 3 types of stations: A; Company-owned; B: Lessee; C: Not controlled."

"Texaco, Signal and Rio Grande have discontinued merchandise control."

"Exhibit No. 1226" is included in Hearings, Part 14, appendix, p. 7676

Exhibit No. 1227

Statement Prepared for the Temporary National Economic Committee by Henry A. Crouthamel, Executive Secretary, Maryland Association of Petroleum Retailers, Inc., Baltimore, Maryland

We represent in the Baltimore tank-wagon area approximately twelve hundred (1,200) retail petroleum dealers. These petroleum dealers have been operating on a losing basis financially since June, 1936 when the, so-called, Iowa Plan of Marketing was put in effect. This became effective about the same time that the last Veterans Bonus was paid by the Federal Government. Many of the veterans took their bonus money to acquire leased stations and soon found out that they had not only lost the few dollars that they had but also the entire bonus, mostly due to fictitious figures given to them by the leasing oil companies.

The apparent reason why retail gasoline stations were leased by the several oil companies seems to be to avoid the Social Security and Unemployment Relief taxes. These taxes being imposed rather suddenly caused the several oil companies to lease their retail operations in advance of full preparations to create a legitimate lease on the real estate. These leases, in most cases, had a five (5) day cancellation clause and were signed on retail stations principally by men who were former managers when the stations were operated by the major oil companies. Our contention is that, no man can enter into a legitimate business on a five (5) day basis.

It might be well to look into a part of the history of the retail division of the petroleum industry. About twenty (20) years, or more, ago all gasoline and lubricating oils were distributed to the consuming public through independent and privately owned outlets. As the industry grew the then supplying companies of refined products saw the advantages in getting control of the oil industry from the producing well to the consumer. Through their control at that time of production, transportation and refining they at once proceeded, also, to gain full control of the marketing division, thereby making a full integration and absolute control from well to consumer.

One of the major steps to achieve their aims was the building of filling stations, in many cases, of such proportions that an individual owner could not afford to build them. Through apparent collusion individual operators who in former years sold various brands of gasoline and oils and were then known as divided, or split, accounts were discriminated against by all major oil companies' reducing their margin of profit one-half cent (½¢) per gallon. This was done for no other purpose than to coerce, or force, these split dealers to sign a contract with one company, said contract being known as a Lease and Agency Contract. Lease and Agency operators were give a half cent (½¢) per gallon advantage over split dealers. This step was taken for no other purpose than to eliminate the then independent dealer as there was no economic justification in this as the selling expense per gallon is the same whether one or a dozen suppliers' gasolines are sold. There is no parallel to this discrimination in any other industry.

During N. R. A. days there was possibly more contention in the marketing division of the Planning and Coordination Committee over Lease and Agency Contracts than any other question. Lease and Agency Contracts very often were referred to as methods of boycotting and discriminating against independent dealers. In spite of the Robinson-Patman and other anti-trust acts this discrimination still continues at the present time, not only as far as 100% or split resale dealers are concerned but there is also a rank discrimination by the major oil companies in that they supply their dealers at one price and the so called commercial consumers, such as trucking concerns and other industrial firms who have tanks in their onw yards, at a price below dealer cost. The smaller commercial consumers are getting gasoline at from one-half cent (½¢) to one cent (1¢) below the dealers cost and the large commercial accounts get as much as two cents (2¢) per gallon below depending on gallonage as you can see from section of the tank wagon market price schedule of the Standard Oil Company of New Jersey which we quote from the October 26, 1938, issue of National Petroleum News:

"*Essolene* (*Regular Grade*)

"Baltimore, Md:

"Consumer Tank Car	7. 25
"Dealer T. W.	8. 75

"*Discount to undivided dealers, except in Atlantic City and Newark, N. J.*
* *.—Dealer t. w. price less 0.5¢ per gal.

"*Price basis to commercial consumers.*—To contract accounts, purchasing at least one full compartment at a time by hose connection: Effective March 12, 1937, in New Jersey, and March 8 in Maryland, District of Columbia, and in Arlington and Fairfax Counties in Virginia, on yearly purchases: from 2,500 to 100,000 gals., consumer t. w. price at time and place of delivery; 100,000 gals. per year consumer tank car price, plus 0.5¢ per gal. Generally consumer t. w. price in foregoing states is equivalent of dealer t. w. price, less 0.5¢ per gal."

After June 1936 when all major companies in our area except the American Oil Company leased their stations to individuals who were then supposed to be independent operators simply leasing the real estate from the supplying company on a minimum rental basis on monthly gallonage sold at retail, the retail market of gasoline was fairly well stabilized for a few months. Then when general business conditions entered into the oil industry and monthly gallonage in some of these leased stations began to decline, the managing heads of the several oil companies sent their sales force into the field demanding that the leased dealers obtain more gallonage. The dealers were told by these representatives that they should remember that they signed a lease with a five (5) day clause in it and that the supplying company could cancel their lease if they did not get additional gallonage. Many of these leased dealers being former employees of the same company and having previously worked under strict supervision, in many cases, became alarmed thinking the lessor might carry out his threats and they would be thrown out of a job, therefore, they proceeded to cut prices to favorite accounts with the idea that they could pick up additional gallonage. This led to an apparent "price war" on gasoline in this area. During a stable market the ordinary margin of profit on gasoline being four cents (4¢) per gallon was, in most cases, forced down to two cents (2¢). Leases on filling stations that major oil companies bring to their dealers to sign do not contain a stipulated gallonage required at such stations. A separate sales contract which usually accompanies such leases stipulates a minimum yearly gallonage expected to be sold.

We would like here to cite a case in which a Mr. A. P. Johnson was notified on January 11, 1938, of cancellation of his lease at Monroe and Baker streets, Baltimore, Maryland, with the Sinclair Refining Company, the anniversary date of the said lease being not until April 8, 1938, the original lease being dated April 8, 1936. Mr. Johnson was ordered to turn over all property belonging to Sinclair on January 19, 1938. This gave him eight (8) days' notice. Mr. Johnson protested his eviction and was eventually taken to the People's Court by Sinclair on February 14, 1938. He was allowed by the Court to remain in his station until within fifteen (15) days of the expiration date of his lease. Sinclair Company charged Mr. Johnson one-half cent (½¢) per gallon rental, and delivery tickets are in our possession receipted by tank-wagon drivers showing us that they accepted rent, for the premises up to and including February 14.

We quote below paragraphs four (4) and five (5) from lease dated April 8, 1936, between Sinclair Refining Company and A. P. Johnson:

"4. To HAVE AND TO HOLD the above demised and leased premises, and all rights, privileges, and appurtenances thereunto belonging, unto Lessee for a period beginning the 8TH day of APRIL, 1936, and ending the 7TH day of APRIL, 1937, and from year to year thereafter; provided, however, that Lessee may terminate said lease at the last mentioned date or on any succeeding anniversary thereof by giving written notice to Lessor thirty (30) days prior to the date upon which termination becomes effective, and that Lessor may terminate at any time by giving five (5) days prior written notice to Lessee. If rentals have been paid covering a period subsequent to the date Lessee vacates in compliance with such notice, Lessor shall refund to or credit Lessee with the unearned rental, except in the event of Lessee's breach or default. No previous notice or refund of rentals shall be required in the event of cancellation of this lease for breach or default as hereinafter provided.

"5. In consideration of being permitted to use and occupy said station and premises and to operate the same for his own account Lessee, as compensation for this lease, shall:

"A. Care for, protect, and preserve the premises and property.

"B. Pay to Lessor rental in such amount, at such rate, at such times, and in such manner as may be specified herein.

'For each month during the term hereof, or any renewal or extension thereof, Lessee shall yield and pay as rental for said premises, station and appurtenances a sum equal to ONE-HALF CENT (1/2¢) cent(s) per gallon on all gasoline delivered by Lessor to said station for sale therefrom. The monthly periods for which the

rental shall be due and payable shall be calendar months. Such rentals shall be paid in installments concurrently with each delivery of gasoline made by Lessor to said station by charging in the amount shown on the tank wagon ticket or invoice a sum computed at the rate of rental above specified based on the quantity of gasoline then and there so delivered."

From the "Refined Oil Sales Agreement—Dealer" between Sinclair Refining Company and A. P. Johnson dated April 8th, 1936, we quote discount paragraph and delivery paragraph:

"DISCOUNTS: Dealer shall be entitled to discounts in accordance with Seller's official established schedule of discounts (for tank wagon deliveries) prevailing at the time and for the place of each delivery and for the class of dealers in which Dealer is included at such time. Such schedule shall be posted at Seller's bulk plant from which delivery is made. Dealer agrees that Seller shall have the right to change said schedule of discounts at any time and from time to time, without notice to dealer except as shown in Seller's invoices. Dealer agrees that Seller's determination shall be conclusive as to the class of dealers in which Dealer may be included at the time of any delivery hereunder. It is agreed that Dealer is classified on and as of the date hereof as a *2073* dealer and that Seller's official established schedule of discounts for dealers of such class in effect on the date hereof is as follows:

"Sinclair H–C Gasoline	*4¢* cents per gallon.
"Sinclair Ethyl Gasoline	*4¢* cents per gallon.
"Sinclair Green Gasoline	*3¢* cents per gallon.

"DELIVERY: The gasoline purchased hereunder shall be delivered in fairly even monthly quantities by Seller's tank wagons at Dealer's place or places of business at "MONROE AND BAKER STREETS, BALTIMORE, MD."

We copy below body of letter from D. L. Goodman, General Agent, of Sinclair Refining Company to A. P. Johnson dated January 11, 1938:

"You are hereby notified, and you will take due and timely notice, that Sinclair Refining Company elects to and does hereby terminate and cancel as of January 19th, 1938, that certain lease agreement, form 2073, dated April 8th, 1936, by and between Sinclair Refining Company as lessor, and you as lessee, covering service station premises situate at the southeasterly corner of North Monroe Street and Baker Street, Baltimore, Maryland.

"You are further demanded to vacate the said premises and to surrender possession thereof, together with all company equipment and property now in your possession, to Sinclair Refining Company on January 19th, 1938.

"This notice is served on you pursuant to the right given Sinclair Refining Company under the terms of the lease to forthwith terminate and cancel the same in accordance with the terms thereof."

However, before Sinclair had Mr. Johnson brought into court their supervisor attempted to take an inventory of canned lubricating oils and other products that Mr. Johnson had purchased and paid for and were on his property. Mr. Johnson was compelled to call in the police to remove from the premises the supervisor of Sinclair who was taking this inventory. The purpose of the inventory, as explained to Mr. Johnson, was to sell these oils and other supplies to the new lessee without Mr. Johnson's consent. Before receiving the eviction notice Mr. Johnson was told very plainly that he would have to sell his gasoline at retail at a two cent (2¢) per gallon discount or have his lease cancelled.

We believe it would be well for you to have an interview with Mr. A. P. Johnson of 2705 Mt. Holly Street, Baltimore, Maryland, who could explain more in detail the exact transaction.

We would like now to refer the costs of operation in a modern service station. On surveys that have been made the following costs are very conservative: rentals average from one cent (1¢) to one and one-quarter cents (1¼¢) per gallon; labor two cents (2¢) per gallon; various other expenses such as lights and power, telephone, water rents, cleaning compounds, shrinkage, toilet supplies, etc., cost approximately three-quarters of a cent (¾¢) per gallon. This does not take into consideration credit losses nor additional business taxes such as Social Security, Unemployment Relief, personal property taxes on stock and fixtures as well as many others.

When the lessee dealer came into existence, we were told that the major supplier had absolutely nothing to do with the establishment of retail prices, this being the dealer's own responsibility. But, since the present price war which now has been waging about seven (7) months there is no supplying company in the Baltimore

area that has not instructed their lessees to reduce the prices and be competitive with other brands of gasoline. In many cases where discount signs have been displayed at stations they were painted and supplied by the company owning the real estate. This certainly looks like dictation of a price policy. Also, many supplying companies, immediately after leasing their stations, arranged with, so called, consumer accounts without the dealer's entering into the agreement to honor special discount cards presented by these consumers at retail stations. The Sun Oil Company would solicit these consumer accounts and present them with what was known as the "99" cards entitling such consumer to a two cent (2¢) discount at their leased retail stations. The lessee was forced to lose this two cents (2¢) per gallon himself. Sherwood Brothers use a similar card for their employees, these cards are known as "U. B.". The Shell Eastern Petroleum Products Company also has a similar card known as "Own Consumption". When the "99" cards were presented at Sun Oil Company leased stations, the dealers did not want to honor them. There being only about sixteen (16) Sun leased stations in Baltimore City, they called each other and held several meetings to discuss the advisability of honoring such cards. They then elected a committee to see the Sun Oil Company management and told the Sun Oil Company that they would not give two cents (2¢) of their profit away unless the Sun Oil Company would reimburse them. This the Sun Oil Company said they could not do. After several meetings of the dealers they finally agreed among themselves to honor these consumer accounts but only on a one cent (1¢) reduction basis. It seems that nothing has been overlooked by the suppliers to get volume through their stations at the leased dealers' expense.

In connection with costs of doing business at a retail service station, we would like to refer to a statement made by Mr. Amos L. Beaty, who was then chairman of the Planning and Coordination Committee, before the American Petroleum Institute meeting at Dallas, Texas, in November 1934 when he said that the cost of selling gasoline by large oil companies was seven cents (7¢) per gallon. Also, we would like to call your attention to evidence prepared by the integrated oil companies at Cleveland, Ohio, in 1933 at labor hearings where it was shown that five hundred eighty (580) company operated stations lost two and fifty-three hundredths cents (2.53¢) per gallon on fifty-two million nine hundred thirty-six thousand six hundred three (52,936,603) gallons of gasoline. It was shown that the cost of retailing gasoline in Cleveland by integrated companies in 1931 was eight and eighty-four hundredths cents (8.84¢) per gallon, in 1932 it was nine cents (9¢) per gallon, and in 1933 it was nine and sixty-three hundredths cents (9.63¢) per gallon. And, still the major companies in our area tell us that a three cent (3¢) margin of profit is sufficient and they are doing everything in their power to diminish their margins of profit to this level.

We might refer here to the excess building of filling stations which is still continuing far beyond the saturation point which has largely contributed to the cost of doing business as referred to by Mr. Beaty and again at the Cleveland hearings. Our contention is that, this uneconomic building of filling stations could not have been brought about unless the major oil companies had other sources of revenue to draw on beside the profits in the marketing division. It is fairly well known that through the various integrated divisions they are passing money derived from excessive dividends paid in their production and transportation divisions, more especially the pipe line divisions. We would like to submit the statement of the Railroad Commission of Texas in their report for December 31, 1933 which shows that eighteen (18) pipe line companies operating in the State of Texas had a capital investment of four hundred sixty-six million dollars ($466,000,000) and that for the year 1933 they declared over sixty-five million dollars ($65,000,000) in dividends and had made a profit of nineteen and fifty-eight hundredths per cent (19.58%) on the capital invested. Everyone in the oil industry will tell you that 1933 was a "lean" year for them.

We have no complaint of the various divisions of the petroleum industry declaring large dividends. But, we do not believe that these dividends should be passed from one division to another with the apparent idea of gaining direct control of the entire industry. You may readily imagine the plight of not only the small independent marketers but also of the ultimate consumer of petroleum products if these monopolistic practices are allowed to continue and full control is accomplished throughout the entire industry.

The Baltimore area is possibly one of the most over built cities in the Country and it is entirely possible that the costs of building these filling stations in and around Baltimore have been derived from other divisions of the oil industry. There are over seven hundred (700) service stations in Baltimore of which over one-half are owned and controlled by the major oil companies. In 1937 car

registrations in Baltimore City were one hundred eighteen thousand four hundred sixty-three (118,463). This would give a potential of approximately one hundred sixty-nine (169) cars per station if every car registered in Baltimore City purchased gasoline at these service stations. Many of the cars are owned by industrial firms and supplied out of their own tanks which naturally cuts down the potential at these service stations.

We would like to refer to our local conditions. As stated before, when leased dealers were created they were told that the complete operation of retail marketing was their own. These conditions have changed materially, largely due to coercion, intimidation and dictation from the supplying companies, so much so, that the retail markets of petroleum products in our area are possibly in the most chaotic state in which they have ever been.

Aside from the dealer's conducting his own business as he sees fit, the major suppliers, in most cases, demand that he purchase from them all accessories to be sold to the public which very often could be bought from jobbers of these supplies at a very much reduced rate compared to the prices that the oil companies charge. They even carry this to the extent where the dealer is compelled to buy high priced soaps and toilet paper for rest rooms which are contantly under the strict supervision and criticism of the oil companies. Uniforms worn by attendants as well as cleaning compounds for driveways, and advertising of all types must be paid for by the dealer and are required to be purchased from his major oil company supplier. The purpose of this is that the supplying company receives a quantity bonus on supplies of this nature which it purchases and resells to the dealers and retains this bonus, not passing it on to the dealers. In certain localities the consumer demands special trade marked accessories and anti-freezes, such as Zerone and others, this the dealer cannot furnish according to tying sales contracts unless the dealer hides these articles so that the company supervisors cannot find them. If any forbidden articles are found in a company service station by their supervisor, the dealers are severely criticized and told that they must move such merchandise off the premises.

We would like to refer to several specific cases which we believe are in direct violation of the Anti-trust laws:

Late in 1936 the Armor Tread Tire Corporation, 1600 Patapsco St., Curtis Bay, Baltimore, Maryland, was ordered by Sinclair Refining Company to remove immediately from Sinclair leased dealer stations all Armor Tread tires which might be on their premises if as regular stock or consigned stock. Sinclair leased dealers were also notified that they could not merchandise any other tire at their stations except Goodyear Tire and Rubber Company's products. They were told also by the Sinclair management that they (the dealer) must attend all sales and merchandising meetings held by the Goodyear Tire and Rubber Company. The Standard Oil Company of New Jersey does not allow the Armor Tread tires on the premises at their leased stations, although, at their refinery and wholesale plant they use a considerable amount of Armor Tread tires on their mobile equipment. There seems to be a difference of opinion between the bulk plants on cost of operation and sales department's opinion and regulations regarding what the leased dealer may sell and what his profit should be. It seems to us that monopolists of all types work hand in hand.

There has been recently a drop of one-half cent (½¢) per gallon on gasoline delivered by tank wagon to dealers. The majority of dealers in our area held the retail prices that they had previous to this wholesale drop. Sherwood Brothers did not approve of their dealers benefitting by this one-half cent (½¢) drop: They instructed their supervisors and salesmen to inform their leased dealers as well as some individual dealers who were selling Richfield and Betholine that they could retain their price on Richfield but drop one-half cent (½¢) per gallon in retail price on Betholine which is a premium gasoline. These men in the field went as far as to change the retail prices on computing pumps. A specific case is:

On October 3rd, 1938, at the garage of Martin J. Droney, 231–33 North Holliday St., Baltimore, Maryland, a Mr. Cromer, a salesman of the Sherwood Company, asked a colored porter to change the price on Droney's computing pumps. The colored man told him that he did not know anything about the pumps. Mr. Cromer then, apparently, instructed the tank wagon driver to change the price on Betholine at Mr. Droney's garage. This was done without the knowledge of the proprietor on October 4th by the tank wagon driver. When the proprietor noticed the change in price on his Betholine pump, he immediately proceeded to change it back to the former retail price, instructing his colored man never to allow anyone to tamper with the prices on his pumps in the future. This, we believe, is a direct violation of the Clayton Act.

Mr. John R. Sherwood, when interviewed on the pressure that they were creating on their dealers to reduce prices to meet competition, told us that the day of four cent (4¢) margins on gasoline was gone, and that, the only thing we could hope for was to organize and fight against having it become two cents (2¢) per gallon. Sherwood Brothers were a local concern until several years ago when they affiliated with Richfield. Shortly thereafter Richfield was placed in the hands of receivers and was then purchased by court order by Sinclair Refining Company. We have been told, on numerous occasions, by the Standard Oil Company of New Jersey approximately the same thing, that is, a three cent (3¢) margin on gasoline would be sufficient to operate dealer stations in this area.

We have a Fair Trade Act in the State of Maryland which allows the manufacturer of any trade marked article to establish a minimum retail price on such trade marked articles. Recently over ninety percent (90%) of the retail dealers in the State petitioned their suppliers to use this act. In connection with this petition a committee of our association had a conference with officials of the Standard Oil Company of New Jersey at 26 Broadway, New York City. The conference was not held in their offices, instead the committee was taken to a closed room of some club near 26 Broadway. The reason given for this was that they did not have any conferences which might touch on prices in their offices for fear that there might be dictographs placed about their offices by Justice Department men. The result of the conference was that they could not use the Fair Trade Act as written in the State of Maryland because it did not specifically define a gasoline pump as a container which bears a trade mark, or label.

Having exhausted practically everything available to put the retail division of the petroleum industry back on just a paying basis, not exorbitant profits, we are appealing to you for some remedy which you might have at hand after thorough investigation. We have been told on numerous occasions that Federal jurisdiction does not extend to the sale of gasoline totally within the state of Maryland since it is purely intrastate business in accordance with the decisions handed down by the United States Supreme Court and the decisions of the lower courts follow the same. The case of United States v. Mills brought under the National Industrial Recovery Act was one of the cases involving the Supreme Court's interpretation of the commerce clause of the Constitution. We do, however, believe that with practically all business transactions except the movement of the goods in question being conducted in New York, or some other state, that the petroleum industry as conducted by the major oil companies would, or should, come under the regulation of the Federal Government through some of its administrative agencies.

If present laws might not be adequate, we would like to appeal to you to have enacted by the next Congress of the United States proper legislation to remedy the various evils which now exist in the industry. We are loath to suggest legislation as, we believe, that should be the work of the members of Congress. However, we believe a possible remedy could be achieved by regulation along the lines of the second section of a resolution adopted by the National Association of Petroleum Retailers while assembled in Executive Session at Detroit, Michigan, at the Detroit-Leland Hotel, on October 15th and 16th, 1935, which reads as follows:

> "Second: The committee recommends Federal legislation to provide for segregation of the integrated units of the petroleum industry following lines of procedure as outlined in the Blazer Report. The committee believes the best method would be achieved through Federal licenses administered under the Federal Revenue Act."

The writer of this statement was Chairman of the Legislative Committee at the convention which formed this resolution.

Another remedy, we believe, would be the complete divorcement of all integrated units of the petroleum industry from marketing, so that it would not be possible to pass money from one unit to another. We believe that each division should stand on its own feet.. The individual dealers are not able to receive any subsidy, therefore, we do not believe it is to the public interest for the oil industry to subsidize the marketing division by excessive profits passed from production and transportation.

We will greatly appreciate your consideration of the matters set forth and hope that you find some remedy at hand and instruct the Justice Department, the Federal Trade Commission, or any other Federal agency to proceedat once to remedy those conditions. If proper legislation is not now at hand, we would then expcct you to propose proper legislation at the next convening of Congress.

EXHIBIT No. 1228

[Submitted by Harry A. Crouthamel]

NOTICE TO THE PUBLIC

The operation of this service station is under the exclusive control of the undersigned independent dealer who has leased the premises from Shell Oil Company, Incorporated. During the period when he sells Shell products, the Dealer is entitled to receive all the retail sales and merchandising help and assistance appertaining to those products which Shell furnishes from time to time. Shell exercises no control over the manner or method of conducting this business and is not responsible for the acts of the Dealer or his employees.

E. E. KNAPP, *Dealer.*
SHELL OIL COMPANY, INCORPORATED,
A. E. SMITH, *Division Manager.*

Form 610-4/89

EXHIBIT No. 1229

[Submitted by Henry A. Crouthamel]

COPY

BRIEF ON CERTAIN PRACTICES EXISTING IN THE PETROLEUM INDUSTRY

Submitted by the: National Association of Petroleum Retailers, 251 Republican Hotel, Milwaukee, Wis. Submitted about March 1935

TO THE FEDERAL TRADE COMMISSION,
Washington, D. C.

GENTLEMEN: Your attention is requested, respectfully, to the following practices relative to so-called "margins" to retail petroleum dealers, which are generally observed throughout the petroleum industry in the United States, apparently violating the Clayton Act with regard to discrimination and the combining to injure competitors.

Definitions used in this brief are:

Major oil company.—A large oil company operating in several branches of the industry.

Integrated company.—An oil company combining production, transportation, refining, wholesale marketing and retail distribution.

Independent refiner.—An oil company which ends its operation at the refinery usually, though it may wholesale petroleum products, and may, or may not, produce crude petroleum.

Jobber.—A wholesaler of refined petroleum products, who may, or may not, enter the retail distribution field also.

Retailer, retail petroleum dealer.—A dealer in petroleum products, selling those of either a major oil company, or companies, or independent refiner, or refiners, or a jobber or jobbers; either owning the retail outlet, or leasing it from the supplier of petroleum products, or leasing from a third party; as defined in the Petroleum Code: "Retailer, One who carries a stock of refined petroleum products to sell to the consumer, at retail."

Supplier.—Any oil company, refiner or jobber selling gasoline to retailers.

Retail margin.—The amount of difference between the price the dealer pays for gasoline and the price which his customer pays; also called "discount", "commission", etc.

Divided account.—A retailer who sells the gasoline of more than one supplier.

Undivided account.—A retailer restricted by contract and/or agreement, to sell the gasoline of but one supplier.

Administrator.—The Secretary of the Interior, Harold L. Ickes.

Committee.—The Planning & Coordination Committee, erected by the Code, which formerly had no retailers upon it and now has but one of 25 members.

POINTS COVERED IN THIS BRIEF

(1) By concerted action, unauthorized by law, the major oil companies discriminate against divided accounts by reducing the margin to such accounts one-half cent less than the margin allowed to undivided accounts.

(2) The purpose and intention of the discrimination cited in Point 1, is to discourage divided retailers by placing them at an economic disadvantage as to the relationship between income and expense, making many capitulate to the undivided contracts.

(3) Most undivided contracts specify that the retailer must not sell lubricants manufactured by any other supplier, in addition to the undivided requirements on gasoline, thus destroying the market of independent refiners who manufacture oils, nationally advertised or not, and manufacture little, or no, gasoline, thus narrowing continually the outlets and markets for this type of refiner.

(4) Undivided contracts place the retailer in a position where he is subject to a great degree, to the will of his suppliers.

(5) There is no economic justification for this discrimination in costs, either of production of gasoline or in deliveries; quantity of delivery does not enter into the margin allowed; undivided accounts increase supervision and advertising expense.

(6) There is no parallel to this discrimination in any other industry.

(7) There is no economic justification in retail costs, as the selling expense per gallon is the same whether one or a dozen, suppliers' gasoline are sold.

(8) The excessive number of service stations is chargeable to a large degree, to this discrimination, with a resulting increase in the costs of retailing; one divided account may sell 20,000 gallons per month of ten suppliers' gasoline, whereas ten undivided accounts, to supplant the divided one, would sell 2,000 gallons of gasoline per month, with resulting higher cost per gallon and higher price to the public.

(9) Elimination of divided accounts, due to this discrimination, increases the sales expense, particularly to the small independent jobber.

(10) This discrimination prevents the independent refiner of gasoline from selling his products through the regular retail outlets and forces him to market elsewhere, sometimes at reduced prices, thus creating the cut-rate stations.

(11) Recently, a new form of discrimination has arisen in a differential of margin to retailers who are not in company-owned, or a company-third-party-leased, stations, with the announced purpose of forcing the said retailers from the industry.

(12) Further discrimination is shown in that this recent margin differential is to include any rent paid to the said retailer, while continuing rentals in addition to the margin when the station is rented from a third-party by the supplier.

(13) This new form of discrimination will penalize the jobbers and independent refiners, of both gasoline and oil, by eliminating the only retailers they can sell.

(14) The margin allowed the retailers is inadequate to cover the costs of retail distribution, whether divided or undivided, and places them at a disadvantage with the integrated oil companies who compete with them.

(15) Retailer margins are fixed by concerted action at from two cents to four cents per gallon (with few exceptions) although integrated oil companies have a retail cost per gallon of from seven cents to ten cents, which loss by the integrated companies is made up in other branches of the industry.

(16) Major and integrated companies' representatives meet, from time to time, in secret sessions, and determine upon policies and margins affecting their retail competitors, and forcing independent refiners and jobbers to comply with their decisions.

ARGUMENT

(1) By agreement among themselves, without consultation with, nor consent of, the retailers, major oil companies have practiced a discrimination in the margin allowed undivided and divided retailers to the serious financial injury of the latter. Specifically, in a proposal submitted to the Planning & Coordination Committee, and submitted by the Committee to Administrator Ickes, it was set forth that margins to undivided accounts were to be one-half cent higher than those to divided accounts.

This agreement, known as the "Marketing Agreement", was approved by those refining 85% of the gasoline produced in the United States, before submission to the Administrator. It was returned by the Administrator, with drastic reservations, who said, "The agreement provides for a differential of ½¢ in the margins to be allowed as between divided and undivided accounts. I am not entirely satisfied with the justification given for this differential by the representatives of the industry who have submitted this agreement. However, I am willing to give this provision a trial."

After the reservations by the Administrator, following the appearance of a delegation of retailers for hearing in his office, the agreement was refused by the refiners, who declared it was not the agreement which they had originally signed. However, the paragraph relating to margins was placed generally in effect, which is as follows:

Retail dealers shall have a gross margin on motor fuels of 69 Octane and above 3½¢ per gallon for the class of accounts known as Divided Resale accounts and 4¢ per gallon for the class of accounts known as Undivided Resale Accounts. On motor fuels below 69 Octane, the retail gross margin shall be 2½¢ per gallon for Divided Resale Accounts, and 3¢ per gallon for Undivided Resale Accounts."

The agreement was never given final approval of the Administrator, and so has no standing under the "Code of Fair Competition for the Petroleum Industry", or the National Industrial Recovery Act. Nevertheless, the differential in margin was placed in effect by common consent of the refiners.

(2) There can be only one direct purpose in lowering the margin to divided accounts, which is that of discouraging them by offering a better margin to undivided accounts. By so discouraging the retailers operating divided stations, it is axiomatic that many such would accept undivided contracts at the first opportunity and new persons entering the retailing of gasoline would prefer to operate an undivided station.

Thus the divided account retailers are being eliminated from the retailing of gasoline, as such, because of the economic disadvantage, resulting from lower margins. This economic disadvantage is a serious handicap, since the higher margins granted undivided accounts are approximately 25% below the actual cost of retailing gasoline and the margins allowed divided accounts, are approximately 35% below the cost of sale, or 12½% below the margin allowed undivided accounts.

These facts are well known to the integrated oil companies, and thus to other refiners, because their cost of operation of retail outlets is higher than that of retailers, being from 200% to 285% of the margin allowed. Consequently, it cannot be replied that this discrimination was unwitting on the part of the major oil companies, or that they did not realize the injury imposed by their concerted act.

(It is suggested that the Federal Trades Commission demand the records of Marketing Sub-Committee (D) from January 20th to February 28th, 1934, when this subject was under discussion.)

(3) An indirect object of this margin discrimination is the exclusion of the independent refiners of lubricating oils from retail outlets, thus lowering the competition to the oils manufactured by the major oil companies. This is shown by the clause found in most undivided contracts requiring that the retailer shall sell no petroleum products except those manufactures and/or supplied by his contracting supplier. In some cases, this form contract is made to include alcohol; in others, even to include accessories, thus narrowing the markets of manufacturers. Further, it restricts the outlets for the small refiner of gasoline, who cannot afford the extensive supervision that accompanies undivided accounts, or the expense of a system of chain outlets.

Since this is the known effect of a reduction in divided accounts, the indirect purpose is clear.

(4) The retailer who is dependent upon the goodwill of a single supplier, is not the free agent that the retailer purchasing from several suppliers can be. In the latter case, each supplier will be striving for the goodwill of the retailer, in order to sell more merchandise to him, to his customers. The contracts to divided dealers are usually quite liberal; those to undivided dealers are usually of the Lease & Agency, and similar forms, which are well known to the Federal Trades Commission.

Thus, another indirect purpose is revealed which is to obtain greater control over the retailers and to be in a position to threaten and coerce, in order to achieve the demands of the supplier.

In a communication from Tyson M. Kline, Newark, N. J., to K. R. Ware, chairman of the New Jersey State Petroleum Code Committee, from data compiled by Frank V. Wakeman, president of the Eastern States Conference, Newark, N. J., the following quotation: "As stated above, the policy of 100% outlets has materially reduced the average sales at independent stations of classes (1) and (2) of retail dealers, thus building up a higher sales cost per gallon. The question of differential between the 100% and the split-station has been false from the start. After an attempt was made to coerce dealers into 100% agreements and contracts with a small amount of success, more drastic means were employed. Instead of increasing the margins to 100% accounts, the margin was reduced to split-accounts, in order to force them to sign some form of 100% agreement.

"The differential originally used was 1¢ per gallon. The degree of success of this policy is easily understood from a survey made in and around the city of Newark, which reveals that approximately 90% of the outlets today are 100%. We have heard a great deal of the argument that a company could do more for a

100% dealer than it could for a split-dealer. The facts are that instead of doing more for the 100% dealer, less was done for the split-dealer; and the logical answer is to give the dealer an opportunity to do something for himself rather than to be held in a state of servitude by being forced to sell gasoline as a loss-leader in order to get a livelihood from the sale of other merchandise. The statement that integrated companies wish to do more and could do more for a 100% account is purely a subterfuge and a mis-statement of fact. The real reason back of such a policy was to freeze out competition, and the results are too obvious to warrant discussion here. There is, therefore, no sound basic reason why the few remaining split-accounts should not receive the same margin as 100% accounts."

(5) That there is no economic justification for a discrimination in margin between undivided and divided retailers in the cost of production of gasoline, provided that production is kept within the market requirements and not produced in excess of prorations, is too obvious to require argument. It is only when gasoline is produced in excess of the public demand that there is need to exclude other refiners from selling at a given outlet and it is only from a greed for gallonage, of both gasoline and oil, that this desire to exclude other products from a given outlet has been produced. Obviously also, it costs no more to deliver a given quantity of gasoline to a divided outlet than to a undivided outlet. Certain cases on record show that a divided retailer sells more of a given refiners' gasoline than the undivided retailer, near him, of the same refiners' gasoline, yet the divided retailer is penalized with a smaller margin, although the cost per delivery increases in inverse ratio to the amount of gasoline per delivery. Thus, there is no justification in delivery costs for a reduction in margins to divided accounts. Undivided accounts, because of the increase in the number of outlets thus entailed, increase the total cost of service station supervision and, because of the nature of their contract, add further to the burden of management. Advertising expense is increased also, because of the greater number of advertising signs, pump-globes and various means of attracting the attention of the public are required in proportion to the number of outlets.

Thus, once more, it becomes obvious that the only reason for reducing the margin to divided accounts, is to force them to become undivided accounts with results as stated above.

(6) In this question of exclusive dealing with one supplier, or penalizing the retailer who refuses to do so, there is no parallel in any other industry or merchandising field. The grocers and other tradesmen are permitted to carry the brands of as many manufacturers as they desire, without suffering a reduction in their gross profits. So it is in other retail merchandising, to the best information obtainable. Certainly, there can be no reason why the petroleum industry should be set apart as different from other fields of merchandising, or should be permitted to discriminate between its retailers, as to whether they handle the products of one company exclusively, or of several companies. Certainly, there should be no restrictions upon the retailers as to what, or whose, products they shall sell. Undoubtedly, there are other manufacturers in other fields, who would like to enforce exclusive dealing, if they were short-sighted enough to do so, but refrain from so doing because of the Anti-Trust Laws. The petroleum industry is granted no exemption from these same Laws, which are created in the public interest.

The cost of retailing gasoline, whether that of one supplier, or of several suppliers, is identical and the discrimination in margins finds no economic justification in retail costs. There is no difference in the investment in the station and equipment, or rental, and there is no difference in the taxes and other similar burdens. Just as many men are required, whether the outlet is a divided account or an undivided account, and just as much time is required to pump a given quantity of gasoline. Without enumerating all of the various expenses of a gasoline outlet, the same may be said of all of the factors entering into the cost of retailing gasoline. The only possible saving is an increase in gallonage per station, explained in the next section, which does not apply at the present time because of the increasing number of undivided accounts.

Thus, the major companies have enforced a lower margin upon divided accounts, knowing that it hampered such retailers and placed them at an economic disadvantage which would result in their extinction.

(8) It has been stated, with some degree of evidence, that there are approximately 40% too many retail outlets for petroleum products in the United States today. Evidence introduced at a hearing before the Wisconsin Department of Markets, Republican Hotel, Milwaukee, Wisconsin, on November 27th, 1934, showed that

outlets are continuing to be built by integrated companies, regardless of the present over-expansion, and that these companies are almost exclusively the only persons building additional outlets. The purpose is to secure stations under direct-management at which the products of the company are featured exclusively. This same desire is manifested in the discrimination between divided and undivided accounts. It is evident that a divided outlet could handle the product of ten suppliers, affording the neighborhood the various brands which it desired at a single location. Such a station might sell 20,000 gallons of gasoline per month, reducing the cost per gallon through quantity distribution, approaching a balance between the margin and the cost of sale. If this same retailer changed to an undivided account, the nine suppliers ousted from the outlet would seek, immediately, new locations in the neighborhood for the dispensing of their product. The average gallonage for the original outlet and the nine new ones would then be 2,000 gallons per month, with an increased cost of sale per gallon. Yet the discrimination practiced between divided and undivided accounts has and is producing this very result. In many instances, the new outlets are company-operated, as part of the integration, and the increased costs of the sales service is added to the cost of gasoline at the refinery, thus penalizing the public in achieving the objective of the integrated company.

This uneconomic condition should be terminated in the interests of the public, as well as of the retailers, through elimination of discriminatory margins.

(9) Discriminatory margins, eliminating divided accounts by forcing the retailers to become undivided accounts, in their endeavor to recover the cost of merchandising gasoline, results in higher sales costs to all wholesalers of petroleum products. This is true, because the wholesalers, particularly independent jobbers, must seek further and spend more money in an endeavor to secure outlets, and must promote new outlets in many cases. If this discrimination were not practised, major companies, independent refiners and independent jobbers could approach any divided account with a proposition to handle the products which they were seeking to wholesale. Naturally, most retailers would prefer to be in the divided account class, just as grocers, hardware men, or any retailers in any other classification, and would thus afford a wide market for those wholesaling petroleum products.

Thus, an added burden is placed upon the industry by these discriminatory margins, which is reflected in the price of gasoline.

(10) One of the most disturbing influences in the current market situation is that of the cut-rate stations, which undersell the majority of the retail outlets. This condition is attributable, to a large extent, to the necessity of the independent refiners finding an outlet for their product. This condition would not obtain, to so great an extent, if there were sufficient divided accounts to absorb the products of such independent refiners and so the situation is chargeable to the unfair trade practice of discriminatory margins between divided and undivided accounts.

(11) A practice is now current under which suppliers discriminate in margins between retailers in stations owned by the supplier, or rented by the supplier from a third party, and those retailers, who own their outlet, or rent it from a third party. To illustrate: In a specific instance, the major company pays $250.00 rent for a service station and pays the retailer on this outlet, a margin of 4–4–4 cents, on all brands of gasoline; this same company paying another retailer, who pays his own rent, a margin of 3½–3½–2½ cents. This discrimination is for the announced purpose of eliminating the retailers, who either rent or own their stations, and are thus more independent compared to the retailer who operates an outlet in the hands of his supplier, from the industry and secure greater domination of the retail marketing by the major companies.

The purpose of this discrimination was clearly stated in the Milwaukee Sentinel of November 25th, in an anonymous interview, but attributed by the writer to an oil company official in which it was stated, "that the present margin reduction was but a pat on the cheek to the punches in the nose which the retailers have coming," and went on to say that the retailers and jobbers must be eliminated from the field.

Various editorials in the National Petroleum News, a publication controlled by integrated company influence, have advocated such a move since the beginning of May, 1934. This publication has stated that a large number of the retailers must be driven from the industry to lessen the competition which the major companies face in their integrated outlets.

(12) Further discrimination in the current situation as to retailers in company-controlled outlets and those having their own outlets, is shown in the order of

C. E. Arnott, president of Socony-Vacuum, under date of October 12th, 1934, to refiners marketing in the Third Region, that the reduced margins must be an over-all allowance and must include any rentals paid to retailers having their own outlets for the privilege of having the said refiners' products handled exclusively at that outlet. In explanation, it has been the common practice to pay a rental, under a lease, to a retailer, owning the station or renting it from a third party, as a part of the agreement and in consideration of the retailer being an undivided account. Under the order of Mr. Arnott, this rental was to be cancelled without releasing the retailer from the terms of the agreement and amounts to confiscation of the exclusive privilege to the outlet.

This is an additional discrimination to the difference in margins, under section 11, which appears to be a violation of the Anti-Trust Laws, and creates unfair competition between two classes of retailers.

(13) This new form of discrimination between retailers will create an additional hardship upon independent refiners and jobbers of gasolines and/or oils, through the elimination of those retailers who possess their stations, with the remaining retailers in company-possessed outlets, to whom the independent refiners and jobbers cannot sell. Such restriction of markets is an unfair trade practice which the Commission should eradicate.

(14) Current margins allowed retailers are inadequate to cover the costs of retail sales. Surveys which have been made show costs of retail sale by retailers varying from 4.75 cents to 5.23 cents per gallon, when averaged. Some of these surveys were made before Union scales and wages were adopted and new surveys would show a higher top figure. These costs are not disputed by the large oil companies, and allow a margin from 20% to 50% below the cost of sale, knowing that they are forcing the retailers, with whom they compete, to sell gasoline as a loss-leader. The retailers have no parent organization to absorb their marketing losses, as do the integrated companies, and are thus placed at a disadvantage, being forced to curtail their expenditures for buildings and equipment and for services to the public.

Statistics upon costs of retail distribution of gasoline, by retailers, can be secured from the Petroleum Administrative Board and the Wisconsin Department of Markets, Madison, Wisconsin. Most of these figures are sworn to and some of them have been prepared by certified public accountants. They prove, beyond doubt, that the retailers are forced to accept a margin below their cost of sale, placing them under an unfair trade practice by the integrated companies, their competitors.

(15) Retail margins have been set by concerted action of the refiners marketing in a given area, either by one company taking action and all others following that action immediately, or by meeting and agreeing upon certain margins. These margins are fixed at the present time at from two cents to four cents per gallon, with very few exceptions, although this margin is far below the retail cost of integrated retail operations. The retail costs of integrated companies vary from seven to ten cents per gallon, or from 3½¢ to 2½ times those allowed the retailers. It is commonly stated by the integrated companies that their marketing units are losing money, on a large scale. Either the distributing units must have help from the balance of the integration, or go out of business. That they are still in business proves the point that they are securing money from other departments. That this loss of the marketing unit, transferred to other departments, is added to the price of gasoline, is shown by the statements of earning in news and trade publications.

Thus, the integrated companies jointly determine a margin below the cost of retailing, which means a loss to the retailer, while charging their own losses to the public in the price of gasoline in addition to the profit which is made on the production, transportation and refining of gasoline. Thus, the retailer is forced to charge a higher price for the gasoline which he sells, because of the higher price charged at the refinery to cover marketing losses, without receiving a return covering his own cost of marketing.

Thus, he is the victim of collusion by his competitors to injure him in a manner which appears to be a violation of the Anti-Trust laws.

From evidence prepared by the integrated oil companies at Cleveland, in the recent labor dispute, it was shown that 580 company-operated stations lost 2.53 cents per gallon on 52,936,603 gallons of gasoline in 1933. It was shown that the cost of retailing gasoline in Cleveland, by integrated companies, in 1931, was 8.84 cents per gallon; in 1932, it was 9.00 cents per gallon and in 1933, it was 9.63 cents per gallon.

It should be evident that if the retailing of petroleum products were exclusively through retailers, the price of gasoline would have been less by the amount of the loss.

Amos L. Beaty, then chairman of the Planning & Coordination Committee, stated before the American Petroleum Institute meeting, Dallas, November, 1934, that the cost of selling gasoline by the large oil companies was not less than 7¢ per gallon.

From the Gasoline Retailer, November 24th, 1934, it is shown that thirteen integrated companies, more than doubled their earnings during the first three-quarters of 1934, as compared to the same period in 1933, from $15,190,569.00 to $33,027,332.00. Of these thirteen refiners, only two suffered a reduction in 1934 from the figures of 1933.

From a brief filed by the Attorney-General of the State of Washington:

> Under the Lease & License method and by boy-cotting and discriminating against the independent service station operator, they control 98% of the service stations and thereby monopolize the retail as well as the wholesale gasoline business in the state. The affidavits of the plaintiff show that gasoline can be delivered and sold to the public, paying the service stations reasonable compensation and the dealer a reasonable profit, for 16¢ per gallon—and these companies are charging 23¢ per gallon; which means, according to the gallonage sold in this state, approximately *two million dollars a month* taken unlawfully from the people.

(16) Under guise of a mythical stabilization committee, the representatives of integrated companies and other refiners are meeting, from time to time, for the determination of concerted action on margins and dealer policy. One such meeting was held at the Blackstone Hotel, Chicago, on October 12th, 1934, at which a reduction of one-half cent in margin to retailers possessing their own outlets was determined, which margin was to include any rental by the supplier, or other outside considerations, and all suppliers in the Third Region were ordered to change existing contracts as necessary to this change in policy. This action was announced to the press as having Code authority in the stabilization committee for the Third Region. The fact is that no stabilization committee had, or has been, appointed for the Third Region and that even if such a stabilization committee were appointed, it had no authority to reduce margins. Information from various sources indicates that certain refiners did not desire to adopt the new margin and policy, and certain independent jobbers endeavored to resist such changes, but that they were all forced into line, by some intangible pressure.

The only conclusion possible is that the refiners marketing in the Third Region met for the purpose of conspiring to reduce margins to a certain class of retailers in violation of the Anti-Trust Laws and that they did, by collusion and conspiracy, carry out their purpose. Further, that, through some unknown, unfair competition, they forced other wholesale marketers to join them in the conspiracy. That an attempt has been made to create the impression that this action had the authority of the Petroleum Code, under the National Industrial Recovery Act, whereas such was not the case.

Further, the integrated companies, by virtue of their directly company-operated outlets, are the competitors of the retailers against whom the concerted action was taken, and thereby sought to injure those with whom they are in competition.

Evidence of this concerted action is contained in letters, many of which are identical in form, sent by refiners to this certain class of retailers in the Third Region, informing them of the changes in margins and contracts effective December 1st, 1934.

It is evident that C. E. Arnott, as chairman of the general stabilization committee, appointed by Administrator Ickes, had no authority to order a change in margins and contract conditions, under the guise of recommendations and that such action exceeded his authority as given in the following quotation of a letter from the Administrator.

> "The market for gasoline and other petroleum products has recently been disturbed by numerous price-wars in many different localities and states. This has resulted in causing petroleum products to be sold below cost in some areas in order to meet unrestrained competition, and has in turn, depressed the wholesale market for such products, thereby leading to the building up of surplus and to the economic and physical waste consequent thereon.

"Such conditions have a strong tendency toward, and in many instances have resulted in, the payment of wages below the minimum established by the Code, and in the working of employees for a period beyond the maximum hours provided for by it. Furthermore, price-wars necessarily injure small independent marketers who are unable to dispose of their products profitably when prices sink to ruinous levels. It would appear, therefore, that we are faced with conditions which would, if controlled, tend to frustrate the purposes of the National Industrial Recovery Act by increasing unemployment, reducing standards of labor, and preventing the rehabilitation of the industry, which the Act was intended to achieve.

"I am, therefore, requesting you, as chairman of the Marketing Committee of the Planning & Coordination Committee, to take action which we deem necessary to restore markets to their normal conditions in areas where wasteful competition has caused them to become depressed. The number and extent of these situations would make it impractical for the Petroleum Administrative Board acting alone, to deal with each specific situation. Therefore, I am requesting and authorizing you, as chairman of the Marketing Committee, to designate committees for each locality when and as price-wars develop, with authority to confer and to negotiate and to hold due public hearings with a view to ascertaining the elements of conflict that are present, and in a cooperate manner to stabilize the price level to conform to that normally prevailing in contiguous areas where marketing conditions are similar. Any activities of your committee must, of course, be consistent with the requirements of Clause 2 of Sub-section (a) of Section 111 of the Act, and if in any situation it should appear that this Section is not being complied with, the matter should be referred to the Petroleum Administrative Board.

"I trust that I can count on your cooperation."

Sincerely yours,

(Signed) Harold L. Ickes,
Administrator of the Petroleum Industry.

The subject of margin reduction and discrimination in margins between certain classes of retailers have nothing to do with stabilization, in any event.

A letter issued from the headquarters of the Third Regional Planning & Coordination Committee, copied below, states that the margin reduction was made under the Petroleum Code and has the approval of Administrator Ickes and, consequently, was not in violation of the Anti-Trust Laws. The fact is that the subject was never officially brought before the Administrators' attention.

Planning & Coordination Committee

Regional District #3, Chicago, Ill.

No. G. L. 177
Dec. 28, 1934.

To: Committee Members, Marketing Division, Regional District No. 3.
Chairman, State Petroleum Companies.

Re: Code Applicability, to Stabilization.

"The dawn of the new year, 1935, discloses a much more favorable outlook to the Petroleum Industry than has existed for sometime. The accomplishments by and through the Code have been many and beneficial, everything else to the contrary notwithstanding. Unquestionably the outstanding Code achievement during the past year was the granting of authorization to Chairman C. E. Arnott of the Marketing Committee by Petroleum Administrator H. L. Ickes, for the establishment of Stabilization Committees.

"The Congress of the United States, in paragraph (a) of Section 4 of Title 1 of the National Industrial Recovery Act, invested the President with authority to approve voluntary agreements between persons engaged in any industry. Section 5 of Title 1 of the Act provides that while Title 1 is in effect for sixty days thereafter, any agreement approved by the President and any action complying with the provisions of such agreement shall be exempt from the provisions of the Anti-Trust Laws of the United States.

"Under paragraph (b) of Section 2 of Title 1 of the Act the President was authorized to delegate any of his functions and powers under Title 1 to such agents as he might designate. In accordance with this Section, the President did delegate his powers, in so far as the Petroleum Industry is concerned to Administrator Ickes. Therefore, any action of Mr. Ickes with regard to such agreements, within the Petroleum Industry is, in effect, the act of the President.

"The Administrators' letter of July 20, 1934, to Mr. Arnott as chairman of the Marketing Committee, directed him to take necessary action to restore markets in depressed areas to their normal condition and constitutes full and complete authority to designate committees for stabilization "in a cooperative manner".

"The approval by the Administrator, acting as the agent of the President, of any agreement for the stabilization of markets is complete protection against any charge that the Anti-Trust Laws had been violated by such agreement. This has been made possible only by reason of the National Industrial Recovery Act of which your Code is a part and the privilege is available only during the existence of the Act.

"Therefore, complete and unqualified support, financial as well as normal, from the entire industry is respectfully solicited to the end that unfair trade practices shall be eliminated if possible, or at least reduced to an absolute minimum and that marketing conditions may be restored to a wholesome and profitable basis.

"In conclusion I wish to express my heartfelt gratitude for your past forbearance and loyal support. Extending to you my most sincere wishes for a happy and prosperous New Year, I am

Yours very truly,

REGIONAL PLANNING & COORDINATION COMMITTEE NO. 3,
By: (signed) A. G. MAGUIRE, *Chairman for Marketing.*"

PETITION

The Federal Trade Commission is petitioned respectfully by this Association, through H. A. Crouthamel, Baltimore, a vice-president of the Association, to give due heed and consideration to the facts and arguments above set forth.

The Federal Trades Commission is petitioned to conduct such hearings and to make such investigations as may be necessary in determining the truth of these allegations and charges.

The Federal Trades Commission is petitioned to take such action, under the Anti-Trust Laws, as may be necessary and justified by their findings of fact, against the major and integrated oil companies.

The Federal Trades Commission is petitioned to give relief to retailers of petroleum products, and to the public, through necessary steps to eliminate the discriminations herein set forth, and thus protect some 250,000 small business men, their families and employees, and permit them to pursue their honest endeavors to earn a livelihood, pay good wages, and serve the public economically.

The Federal Trades Commission is petitioned to conduct a hearing in the City of Chicago, Illinois, as being centrally located for a large portion of the parties interested, and to hold such other hearings at various points throughout the country, as may be necessary.

This Association pledges all possible service to the Federal Trade Commission in the furtherance of this investigation and is prepared with such witnesses as may be necessary.

Yours sincerely,

NATIONAL ASSOCIATION OF PETROLEUM RETAILERS,
By E. CHAT. SHANKS, *Executive Secretary.*
WILMER R. SCHUH, *President.*
H. W. KRAUSE, *Secretary.*
FRANK B. MEINECKE, *Counsel.*

ECS:k

Submitted by: H. A. Crouthamel, Regional Vice-President, National Association of Petroleum Retailers, 1905 Ellamont Street, Baltimore, Mayrland.

EXHIBIT NO. 1230

STATEMENT PREPARED FOR THE TEMPORARY NATIONAL ECONOMIC COMMITTEE BY GEORGE B. INGRAM, PRESIDENT, NEW DEAL OIL COMPANY, CANTON, OHIO

Mr. Chairman and members of the committee, I, G. B. Ingram, President of the New Deal Oil Company, desire to present my reasons why I believe monopoly exists in the petroleum industry.

I have been in the oil business more than twenty-five years prior to 1927. I had worked for organizations such as: Cities Service, Fred G. Clark, Wenger Armstrong, and Waverly Oil Company. At the beginning of 1927 I organized

and incorporated Red Raven Oil Company which was an Ohio corporation. The stock was divided, one-third between myself and wife, one-third by Henry Wenger, and one-third by Ernest Wenger. We organized and operated one of the earliest Tank Car-to-You stations in the State of Ohio. Shortly after opening this station a number of companies in Canton pooled their resources and built a station directly across the street from my station and proceeded to undersell me. We filed suit against them under the Ohio Valentine Anti-Trust Law. This suit of course never came to trial because in the early part of 1928, my two partners in this corporation got into financial difficulties in Chicago and disposed of their holdings to Hickok Oil Corporation of Toledo which of course gave the Hickok Oil Corporation control of the Red Raven Oil Corporation.

Shortly after the Hickok assumed control, they said they did not desire to have this suit come to trial. Inasmuch as Hickok controlled the company and I was only President and manager, they dictated the policy and then the depression came on and forced myself and wife to sell for a pittance our one-third of the stock of the Red Raven Oil Corporation. We immediately formed the New Deal Oil Company which was incorporated in Ohio in 1933 and still exists with George B. Ingram, President; Joseph Shetler, Vice President; Lydia E. Ingram, Treasurer; and Sherwood Ake, Secretary.

The New Deal Oil Company does both a wholesale and retail business. We market the products of the Pennzoil Oil Corporation including gasoline which is Pennzip and Pennzip Ethyl, as well as a brand of our own which we call Fair Deal Anti-Knock.

I offer New Deal Oil Company Exhibit A, a contract between the New Deal Oil Company and Pennzoil Company dated October 26, 1934. This contract is self explanatory inasmuch as it does show that our prices are based upon the posted prices of the Standard Oil Company of Ohio. We also attach the letter to this exhibit which came with the contract.

We offer as Exhibit B of the New Deal Oil Company under the date of November 28, 1935, a letter from the Pennzoil Oil Company to increase the margin under this contract to six cents over the retail price of Ohio posted by the Standard Oil Company of Ohio and in which this letter definitely states that if we deviate from the price of the Pennzoil Oil Company to dealers, that they would recall this increase of margin.

We submit New Deal Oil Company Exhibits C and D which automatically renewed Exhibit A for another year.

We submit New Deal Oil Company Exhibit E, the contract dated October 26, 1936, as well as the letter which was attached the same. This is the contract which we still operate under. I will try to show you by my various exhibits of price bulletins forwarded to me by the Pennzoil Oil Company that we who market gasoline in the State of Ohio are notified at least a day ahead of time that our prices will change at the same time the Standard changes in price. In reference to that I suggest that you refer to bulletin and letter of November 17, 1934 from the Pennzoil Oil Company which definitely shows you the change is by the Standard Oil Company of Ohio.

These bulletins which I mark Exhibit F are from June 12, 1933 to February 15, 1937. Now I want to refer you to another bulletin which is the type we have been receiving recently, those being mailed to us by the Pennzoil Oil Company at Oil City. We marked this Exhibit G. You will also note that this bulletin is a mimeograph letter headed Standard Oil Company of Ohio.

I am attaching as Exhibit H, nine postal cards of which I have received from the Stark County Gasoline Dealers Association suggesting retail prices, one of them as recent as October 7, 1939. The Stark County Retail Association is principally dealers known as "lease and agent dealers." A lease and agent dealer is one who does not own the premises or equipment and sells principally major oil products.

Exhibit I, will show that this dealers' association does confer with the Standard in regard to price conditions of which we attach newspaper clippings to substantiate our claim.

Exhibit J, I am attaching court records of Common Pleas Court 79849 and 79845 showing what they did to a competitor of mine and at the same time they were doing this I had about twenty-five telephone calls threatening me with the same type of action.

Exhibit K, is self-explanatory where one of the officials of the Standard Oil Company makes a statement that the lowered margin was done to eliminate competition.

Exhibit L, is three copies of the Ohio Black List which was published in Ohio.

Exhibit M, is a letter which threatens me providing I deviate the price structures as sent by my supplying company.

It is my belief that the exhibits that I offer you will prove my contention that monopoly does exist in the petroleum industry in the State of Ohio.

EXHIBIT NO. 1231

[Original documents submitted by George B. Ingram]

THE PENNZOIL COMPANY,
Oil City, Pa., October 26, 1934.

NEW DEAL OIL COMPANY,
Canton, Ohio.
(Attention: Mr. Ingram.)

GENTLEMEN: We attach herewith gasoline contract covering the purchase of Pennzip, Pennzip Ethyl and Penn American gasoline for the year beginning October 26, 1934.

Supplementing this contract, we agree that in the event of a depressed price condition in the State of Ohio, or in the City of Canton, as posted by the Standard Oil Company of Ohio that based on the present retail price of 17¢, your margin will be reduced one-half of such reductions until it reaches 5¢ on Pennzip and Pennzip Ethyl. The price on Penn American gasoline is always ¼¢ less than your price for Pennzip gasoline.

Should you desire, during this period, a 65 octane gasoline, we will supply it to you on the same basis as the Penn American gasoline except that the price shall always be ⅛¢ less than the price as determined for Pennzip gasoline.

Trusting that you will find this satisfactory, we are,

Yours very truly,

THE PENNZOIL COMPANY,
W. R. BIRKMAYR,
Manager Gasoline Division.

WRB:ML

OIL CITY, PENNSYLVANIA, ——— 193

THE PENNZOIL COMPANY, of OIL CITY, PENNSYLVANIA, hereinafter referred to as Seller, agrees to sell, and New Deal Oil Company of Canton, Ohio, hereinafter referred to as Buyer, agrees to buy, subject to conditions, prices, specifications, etc., as set forth below, the Seller's branded products herein contracted for.

Brand.—PENNZIP Gasoline, PENNZIP ETHYL Gasoline, PENN AMERICAN Gasoline.

Term of contract.—For one year, beginning on October 26, 1934, and ending on October 25, 1935; unless canceled for cause or by either party, as hereinafter provided, and is automatically renewed thereafter for yearly periods. This contract may be canceled by either the Buyer or Seller, giving notice, in writing, delivered to the other party's main office, not less than thirty days prior to any expiration date.

Quantity.—500,000 gallons annually of PENNZIP, PENNZIP ETHYL, and PENN AMERICAN Gasoline. The Seller shall not, however, be required to furnish more than 50,000 gallons of PENNZIP, PENNZIP ETHYL, and PENN AMERICAN Gasoline in any one month without the Seller's consent; this provision is made for the benefit of the Seller and may be waived by the Seller in the event the Buyer may desire to order in excess of said amount in any given month.

Prices—Pennzip.—Price on PENNZIP Gasoline to be that published in Platt's Oilgram on date of each shipment, as quoted by the Standard Oil Company of Ohio, for 65 Octane gasoline in tank cars, with freight allowed to Ohio destination. It being further agreed that if such price does not allow a margin of six (6¢) cents under the state wide retail price for X–70 gasoline, as posted by the Standard Oil Company of Ohio, the Buyer is to be billed at a price which will give such margin.

PENNZIP ETHYL.—Price on PENNZIP ETHYL Gasoline to be two (2¢) cents per gallon higher than the price of PENNZIP Gasoline in effect on date of shipment.

PENN AMERICAN.—Price on PENN AMERICAN Gasoline to be one-quarter (¼¢) cent gallon less than the price as determined above for PENNZIP Gasoline. All prices are exclusive of any state, municipal or federal taxes.

Point of delivery.—Oil City, Pennsylvania, in tank cars, freight allowed to Canton, Ohio.

Prices on other products.—In consideration of the benefits accruing to the Buyer as a distributor of PENNZOIL branded products, Buyer states his willingness to purchase from the Seller his entire requirements of gasoline and kerosene. Prices on other than branded products to be the low of Platt's Oilgram for Western Pennsylvania on date of shipment, f. o. b. Oil City, Pennsylvania.

Minimum price.—It is agreed that the net price on each and every shipment to the Seller, f. o. b. Oil City, Pennsylvania, shall, without its written consent, be not less than six and one-half (6½¢) cents per gallon on PENNZIP Gasoline, six (6¢) cents per gallon on PENN AMERICAN Gasoline, or eight and one-half (8½¢) cents per gallon on PENNZIP ETHYL Gasoline. If Seller elects to exercise this right as to any shipment, it must notify Buyer before shipment is made.

Taxes.—In addition to and as part of said contract prices, Buyer will pay to Seller, upon demand, the amount of any tax which Seller is required to pay or collect, now or hereafter imposed by the United States, and/or by any State thereof, and/or a municipality upon the production, delivery, and/or sale by Seller of the material covered by this contract.

Terms of payment.—One (1%) percent ten (10) days; thirty (30) days net. No discount allowable on that portion of invoices covering freight, state, municipal or federal taxes.

Destination of shipment.—It is understood that destination shall be Buyer's Works, Canton, Ohio. Shipment or diversion to any other point subject to Seller's written consent.

Quality.—PENNZIP Gasoline and PENN AMERICAN Gasoline to, at all times, be the standard quality as offered generally for this brand of gasoline by the Seller; PENNZIP ETHYL Gasoline to be equal or better than the standard as set by the Ethyl Gasoline Corporation.

IT IS AGREED AS FOLLOWS:

1. Invoices shall be based on registered tank car capacities, with temperature adjustment at point of delivery.
2. Claim for any adjustment is waived unless made by Buyer before unloading cars.
3. On or before the twenty-fifth day of the month preceding each calendar month in which shipments are due, Buyer shall furnish Seller with full shipping directions therefor.
4. Failure on part of Buyer at any time to pay for goods as required shall be sufficient cause for Seller to cancel contract, or refuse to make further shipments unless paid for in cash, or payment secured to satisfaction of Seller. In case Seller shall have any doubt at any time as to Buyer's financial responsibility, Seller may decline to make further shipments except upon receipt of satisfactory security or for cash before shipment, and so advise the Buyer. Each shipment hereunder shall be treated as a separate contract and may be recovered for as such.
5. Seller shall not be liable in any respect for failure to delay in delivery of any part of the above material, if occasioned by fire, war, flood, accident, labor troubles (including lockouts), epidemic, embargo, expropriation of plant or product in whole or part by Federal or State authority, or any cause beyond the control of the Seller.
6. It is further mutually agreed that Buyer will not sell or permit his dealers to sell any motor fuels under the PENNZIP, PENNZIP ETHYL, or PENN AMERICAN Gasoline brands, excepting that furnished by the Seller for such purposes.
7. Seller reserves the right to change the brand name covering any or all of the products herein contracted for.
8. Unless otherwise stipulated above, tank car forwardings shall be made in Seller's equipment, without expense therefor to Buyer, but Seller shall levy and Buyer shall pay Seller's usual tank car rental for detention of each unit of Seller's equipment held over forty-eight (48) hours' free unloading time at point of consignment (Sundays and Legal holidays excepted); and no reconsignment of Seller's equipment shall be made except with Seller's written consent.
9. The Buyer agrees to use his best efforts to make the goods purchased hereunder readily available, at all times, to the buying public in the following territory:
10. If the Buyer discontinues handling the brand products covered by this agreement, the display of any signs or other advertising pertaining thereto, shall immediately be discontinued, and any signs or other advertising material supplied by the Seller must be returned to the Seller.
11. The sale and purchase of PENNZIP and PENNZIP ETHYL Gasoline are conditional on franchise to Seller and Buyer from the Ethyl Gasoline Corporation.

12. The Seller reserves the right to modify this contract at any time to conform to requirements of the Code of Fair Competition for the Petroleum Industry, as signed by the President on August 19, 1933, or any amendments, official rulings, or regulations applying thereto and the Buyer subscribes to and agrees to conduct his business in accordance therewith.
13. Pursuant to Article V, Section 26, of the Petroleum Code, the Buyer agrees to maintain the resale price schedules established by the Seller from time to time, and to incorporate a similar requirement in any contracts Buyer may make with a purchaser for resale.
14. This contract is to run concurrently with a lubricating oil contract made between the Seller and Buyer, of even date. If Buyer at any time discontinues the handling of Seller's brands of lubricating oil, through its several stations, then this contract may be canceled at the option of the Seller.
15. It is agreed that a violation or a failure to keep and observe any of the terms herein contained on the part of the Buyer shall operate as a cancellation of this contract at any time, upon written notice to that effect from the Seller to the Buyer, and a waiver or waivers of any cause or causes, of cancellation by the Seller shall not be construed as a waiver or waivers of any subsequent accruing cause or causes of cancellation.

It is agreed that this contract cannot be transferred to assigned without written consent of the Seller, under penalty of instant forfeiture.

This paper contains the entire contract. There are no oral promises, representations, or warranties affecting it.

Any change in this contract must be in writing, and signed by the Buyer and Seller through its proper officer.

This contract shall not become effective until executed by a proper officer of the Seller, at its office in Oil City, Pennsylvania.

In witness whereof, the parties as hereto have caused these presents to be duly executed this 28th day of October, 1934.

THE PENNZOIL COMPANY,
By W. R. Birkmayer.

Attest:

MABEL M. LOWES.

NEW DEAL OIL CO.,
By G. B. Ingram, *Pres.*

Attest:

R. A. CAVANAUGH.

RAB/ML
9–18–34

EXHIBIT No. 1232

[Original document submitted by George B. Ingram]

THE PENNZOIL COMPANY,
Oil City, Pa., March 28, 1935.

DISTRIBUTORS IN OHIO:

Effective March 21st, 1935 and until further notice, we are increasing the margin on Pennzip and Pennzip Ethyl Gasoline to our distributors in Ohio to 6¢ off the retail price for the State of Ohio as posted by the Standard Oil Company of Ohio.

The recent retail price advance affords us an opportunity to pass along this additional margin to our distributors. Under no consideration must any of this increase be given to dealers. The dealer structure remains the same and if we receive any evidence that this increase is being passed along and dealer margins are increased, we may have to recall the additional margin to the distributor.

This margin is being given with full realization that it is difficult for the distributor to operate on the present spread and we sincerely hope and trust that it will be permanent. We cannot give any assurance that it will be.

Yours very truly,

THE PENNZOIL COMPANY,
W. R. BIRKMAYR, L,
Manager Gasoline Division.

WRBirkmayr
ML

Exhibit No. 1233

[Original document submitted by George B. Ingram]

The Pennzoil Company,
Oil City, Pa., September 17, 1935.

New Deal Oil Company,
Canton, Ohio.
(Attention Mr. L. E. Ingram.)

Gentlemen: Reply to your letter of September 5th regarding your contract which expires October 25, 1935 was delayed due to my absence from the city.

Your present contract automatically renews itself unless cancelled at least thirty days before its expiration date.

As far as we know now we do not expect to make any changes in distributor contracts in Ohio. We are, therefore, not submitting any new contracts at this time.

Yours very truly,

The Pennzoil Company,
W. R. Birkmayr,
Manager Gasoline Division.

WRB:ML

Exhibit No. 1234

[Original document submitted by George B. Ingram]

The Pennzoil Company,
Oil City, Pa., September 23, 1935.

New Deal Oil Company,
Canton, Ohio.
Attention: Mr. L. E. Ingram,

Gentlemen: Supplementing our letter of September 17th, we wish to advise you that we are not making any change in your present contract, which automatically renews itself on October 25th.

We trust that we will have the pleasure of serving you this year as we have in the past, and that our relations will continue to be pleasant.

Your very truly,

The Pennzoil Company,
W. R. Birkmayr, Jr.,
Manager Gasoline Division.

WRB:ML
dictated but not read.

Exhibit No. 1235

[Original document submitted by George B. Ingram]

The Pennzoil Company,
Oil City, Penn'a., September 14, 1936.

New Deal Oil Company,
Canton, Ohio.

Gentlemen: Our gasoline contract with you expires on October 25, 1936. This contract has an automatic renewal clause which provides that it shall continue from year to year unless either party notifies the other party in writing at least thirty days prior to the expiration date, or any yearly extension thereof.

As our present form of contract is rather antiquated, it is our intention to submit to you a new type of contract, which will be effective as of the expiration date of your present contract. This is notice that we are cancelling your contract with us for gasoline, in its present form, at its first expiration date.

You probably realize the necessity of having a new form of contract as well as we do, so no further explanation is necessary. A new contract will be submitted to you within a reasonable time before the expiration date of your present contract.

Yours very truly,

The Pennzoil Company,
W. R. Birkmayr,
Manager Gasoline Division.

WRBirkmayr
ML

OIL CITY, PENNSYLVANIA, ——— 193—.

THE PENZOIL COMPANY, of OIL CITY, PENNSYLVANIA, hereinafter referred to as Seller, agrees to sell, and New Deal Oil Company of Canton, O., hereinafter referred to as Buyer, agrees to buy his entire requirements of all grades of gasoline, subject to conditions, prices, specifications, etc., as set forth below.

Brand or grade.—PENNZIP Gasoline—PENNZIP ETHYL Gasoline—TRANSPORT Gasoline.

Term of contract.—For one year, beginning on October 26, 1936, and ending on October 25, 1937, and unless canceled for cause or by either party, as hereinafter provided, is automatically renewed thereafter for yearly periods. This contract may be canceled by either the Buyer or Seller, giving notice, in writing, delivered to the other party's main office, not less than thirty days prior to any expiration date.

Quantity.—500,000 gallons annually of PENNZIP, PENNZIP ETHYL and TRANSPORT Gasoline.

The Seller shall not, however, be required to furnish more than 50,000 gallons of PENNZIP, PENNZIP ETHYL and TRANSPORT Gasoline in any one month without the Seller's consent; this provision is made for the benefit of the Seller and may be waived by the Seller in the event the Buyer may desire to order in excess of said amount in any given month.

Prices: Pennzip & Pennzip Ethyl.—Price on PENNZIP and PENNZIP ETHYL Gasoline delivered hereunder shall be two (2¢) cents less than the Seller's posted tank wagon price to undivided dealers as posted in its office in Oil City, Pennsylvania, for the state of Ohio, and

Transport.—On TRANSPORT Gasoline, the price shall be one and three-quarters (1¾¢) cents less than its tank wagon price to undivided dealers, as posted in its office in Oil City, Pennsylvania, for the state of Ohio.

Increased margins.—It is further agreed that the seller, from time to time, during the life of this agreement, may announce as part of its statewide marketing policy, an increase in the margin on the grades or brands herein contracted for; and, in that event, the Seller agrees to extend any such increased margin to the Buyer during the period that the increased margin is in effect.

All prices are exclusive of any state, municipal or federal taxes.

Point of delivery.—Oil City, Pennsylvania, in tank cars, freight allowed to Canton, Ohio.

Prices on other products.—In consideration of the benefits accruing to the Buyer as a distributor of PENNZOIL branded products, (Buyer states his willingness to purchase from the Seller his entire requirements of gasoline and kerosene. Prices on other than branded products) to be the low of Platt's Oilgram for "Western Pennsylvania other districts" on date of shipment, f. o. b. Oil City, Pennsylvania.

Minimum prices.—Notwithstanding the foregoing provisions as to prices, it is agreed that the same shall not obligate the seller, except at its option to be exercised or not from time to time at sole discretion of seller, to make any sale or shipment of the various grades of gasoline to the buyer, at a price per gallon less than the amounts, respectively, which would be determined on the date of delivery under the following provisions:

Pennzip.—Pennzip Gasoline—a sum per gallon equivalent to the low quotation for 63–70 octane rating gasoline for the Oklahoma refinery market (and should this classification of gasoline be discontinued, then the low quotation for the highest octane range up to and including 70 octane shall be used) f. o. b. Group 3, as quoted in Platt's Oilgram on the day preceding the date of shipment plus two and one-half (2½¢) cents, but in no event less than six (6¢) cents per gallon delivered.

Pennzip Ethyl.—Pennzip Ethyl Gasoline—a sum per gallon equivalent to the price of Pennzip Gasoline ascertained under the provisions of the preceding paragraph plus two (2¢) cents, but in no event less than eight (8¢) cents per gallon delivered.

Transport.—Transport Gasoline—a sum per gallon equivalent to the price of Pennzip Gasoline as determined under the provisions of the second preceding paragraph less one-quarter (¼¢) cent, but in no event less than five and three quarters (5¾¢) cents per gallon delivered.

Taxes.—In addition to and as part of said contract prices, Buyer will pay to Seller, upon demand, the amount of any tax which Seller is required to pay or collect, now or hereafter imposed by the United States, and/or by any State thereof, and/or a municipality upon the production, delivery, and/or sale by Seller of the material covered by this contract.

Terms of Payment.—One (1%) per cent, ten (10) days; thirty (30) days net. No discount allowable on that portion of invoices covering freight, state, municipal or federal taxes.

Destination of Shipment.—It is understood that destination shall be Buyer's Works, Canton, Ohio. Sale in tank car lots, or shipment or diversion to any point subject to Seller's written consent.

It is agreed that all gasoline delivered to the Buyer under this agreement is for tank wagon and/or service station distribution only, and that the Buyer is not engaged in the business of wholesaling or retailing gasoline in tank car lots; and the right of the Buyer to secure gasoline under this agreement shall not be used as a means for securing gasoline for delivery to or resale by any other jobber or distributor, irrespective of whether such deliveries should be made by tank car, tank wagon, or otherwise.

Quality.—PENNZIP Gasoline and TRANSPORT Gasoline to, at all times, be the standard quality as offered generally for this brand of gasoline by the Seller; PENNZIP ETHYL Gasoline to be equal, or better, than the standard as set by the Ethyl Gasoline Corporation.

Brand Names.—It is agreed that the Seller may change its brand names, or discontinue the sale of any brand or grade specified in this contract at its option, without liability.

IT IS AGREED AS FOLLOWS:

1. Invoices shall be based on registered tank car capacities, with temperature adjustments at point of delivery.

2. Claim for any adjustment is waived unless made by Buyer to Seller at its office, Oil City, Pa., before unloading cars.

3. On or before the twenty-fifth day of the month preceding each calendar month in which shipments are due, Buyer shall furnish Seller with full shipping directions therefor.

4. Failure on part of Buyer at any time to pay for goods as required shall be sufficient cause for Seller to cancel contract, or refuse to make further shipments unless paid for in cash, or payment secured to satisfaction of Seller. In case Seller shall have any doubt at any time as to Buyer's financial responsibility, Seller may decline to make further shipments except upon receipt of satisfactory security or for cash before shipment, and so advise the Buyer. Each shipment hereunder shall be treated as a separate contract and may be recovered for as such.

5. Seller shall not be liable in any respect for failure or delay in delivery of any part of the above material, if occasioned by fire, war, flood, accident, labor troubles (including lockouts), epidemic, embargo, expropriation of plant or product in whole or part by Federal or State authority, or any cause beyond the control of the Seller.

6. It is further mutually agreed that Buyer will not sell or permit his dealers to sell any motor fuels under the PENNZIP, PENNZIP ETHYL, or TRANSPORT brands excepting that furnished by the Seller for such purposes.

7. Unless otherwise agreed, tank car forwardings shall be made in Seller's equipment, without expense therefor to Buyer, but Seller shall levy and Buyer shall pay Seller's usual tank car rental for detention of each unit iof Seller's equipment held over forty-eight (48) hours' free unloading time at po nt of consignment (Sundays and legal holidays excepted) and no reconsignment of Seller's equipment shall be made except with Seller's written consent.

8. The Buyer agrees to use his best efforts to make the goods purchased hereunder readily available at all times, to the buying public in the following territory: Canton, Ohio.

9. If the Buyer discontinues handling the brand products covered by this agreement, the display of any signs or other advertising pertaining thereto, shall immediately be discontinued, and any signs or other advertising material supplied by the Seller must be returned to the Seller.

10. The sale and purchase of PENNZIP and PENNZIP ETHYL Gasoline are conditional on franchise to Seller and Buyer from the Ethyl Gasoline Corporation.

11. The Seller reserves the right to modify this contract at any time to conform to requirements of the laws, official rulings or regulations of any State or the Federal Government. Buyer subscribes to and agrees to conduct his business in accordance therewith.

12. The Buyer agrees to maintain the resale price schedules established by the Seller from time to time, for its branded and/or trademarked products, and to incorporate a similar requirement in any contracts Buyer may make with a pur-

chaser for resale. The Buyer further agrees that he will, during the life of this agreement, adhere to and strictly observe all of the general marketing policies of the Seller.

13. This contract is to run concurrently with a lubricating oil contract made between the Seller and Buyer, of even date. If Buyer at any time discontinues for any reason the handling of Seller's brands of lubricating oil, through its several stations, then this contract may be canceled at the option of the Seller.

14. It is agreed that a violation or a failure to keep and observe any of the terms herein contained on the part of the Buyer shall operate as a cancellation of this contract at any time, upon written notice to that effect from the Seller to the Buyer, and a waiver or waivers of any cause or causes of cancellation by the Seller shall not be construed as a waiver or waivers of any subsequent accruing cause or causes of cancellation.

It is agreed that this contract cannot be transferred or assigned without the written consent of the Seller, under penalty of instant forfeiture.

This paper contains the entire contract. There are no oral promises, representations, or warranties affecting it.

Any change in this contract must be in writing, and signed by the Buyer and Seller through its proper officer.

This contract shall not become effective until executed by a proper officer of the Seller, at its office in Oil City, Pennsylvania.

In witness whereof, the parties hereto have caused these presents to be duly executed this 26 day of October 1936.

The Pennzoil Company,
By W. R. Birkmayer.
New Deal Oil Co.,
By G. B. Ingram, *Pres.*

Attest: Mabel M. Lowes.
Attest: R. A. Cavanaugh.

Exhibit No. 1236

[Original document submitted by George B. Ingram]

The Pennzoil Company,
Oil City, Penna., February 16, 1937.

New Deal Oil Company,
Canton, Ohio.

Gentlemen: Effective February 6, 1937, the price on gasoline in Ohio was advanced ½¢ per gallon. Your margin on Pennzip gasoline, effective as of the same date, is hereby increased from 2¢ to 2¼¢ below the undivided dealer price of such gasoline, or a margin to you at the present time of 5¼¢. The new tank wagon prices are as follows:

	Penzip Ethyl	Pennzip	Transport
Consumer tank wagon	19¢	17¢	16½¢
Undivided dealers	17½¢	15½¢	15¢
Divided dealers	18¢	16¢	15½¢

Taxes included.

Your prices effective February 6, 1937 on this depressed market will be 8¼¢ on Pennzip gasoline, 9½¢ on Pennzip Ethyl gasoline and 8¢ on 65 Octane gasoline, delivered, exclusive of taxes.

We are very glad that advancing prices have given us an opportunity to restore part of the margin that was taken from you when the price in your area dropped below the State-Wide structure.

This price is effective until further notice.

Yours very truly,

The Pennzoil Company,
W. R. Birkmayr,
Manager Gasoline Division.

WRB:ML

EXHIBIT NO. 1237

[Original document submitted by George B. Ingram]

GO-1 15M-12-32

THE PENNZOIL COMPANY

Inter-office Correspondence

JUNE 12, 1933.

To: BRANCH MANAGERS & DISTRIBUTORS, OHIO.
FROM: R. A. BROWNE.
SUBJECT: Ohio Marketing Policy.

GENTLEMEN: Effective Wednesday morning, June 14, 1933, and until further advised, The Pennzoil Company will put the following marketing policies into effect. It is expected that all branch managers and distributors will adhere absolutely to the program as here set forth and see that their dealers do the same.

The posted service station price for Pennzip Gasoline will be 17½¢ per gallon; Pennzip Ethyl 20¢; on White Gasoline 15¾¢ per gallon.

The above prices will apply on all service station charge accounts, and be the basis from which commercial discounts will be figured.

A discount of 2¢ per gallon will be allowed from the above prices on all gasoline sold for cash at the pump.

Coupon books, where used, will be sold to all classes of consumers for cash only, and at face value. The coupons are redeemable at the cash discount price.

Margins to dealers on Pennzip and Pennzip Ethyl will be 3¢ per gallon; on White Gasoline 1½¢. These margins are under the service station cash price. Controlled accounts will be allowed a ½¢ per gallon greater margin on all grades; however, in no case must the total rental plus dealer's margin exceed the controlled dealer margins as stated above. In other words, if there are any accounts on which you are paying more than one-half cent rental, then the open dealer margin must be reduced to bring the account in line.

Tank car prices on Pennzip gasoline to our distributors will be 5½¢ per gallon under the cash service station price; on Ethyl gasoline, a 5½¢ spread will be allowed under the Ethyl cash price; White gasoline will be billed at 5¾¢ per gallon under the service station cash price for Pennzip gasoline.

Commercial *tank wagon* quantity discount contract customers will be established as follows:

> All such contracts to carry a ten day cancellation clause on written notice.
>
> 0 to 6250 gallons monthly at open dealer's price.
>
> 6251 to 25,000 gallons monthly billed at open dealer's price with a refund of ½¢ per gallon at the end of the month if the gallonage purchased exceeds 6250 gallons.
>
> Over 25,000 gallons per month billed at open dealer's price with a refund of 1¢ per gallon if the purchases during the month exceeds 25,000 gallons.

This new policy contemplates the discontinuance of all commercial rates, discounts, refunds or premiums of any character for sales made through service stations.

It is quite possible that, a little later, we will cancel all service station commercial contracts; however, for the present, these contracts will be honored at the posted price, not the cash price.

This structure allows the distributor and reseller a liberal margin which we expect him to preserve. Any concessions given from this structure in order to buy business, or for any other reason, will, undoubtedly, be met by retaliatory measures from other marketers. Accordingly, the necessity of keeping market conditions absolutely on schedule is the responsibility of all concerned: In fact you should withdraw from any dealer who does not absolutely maintain the schedule.

Provided we are forced to meet any local depressed price structure, the distributor will be required to absorb at least one-half of such reduction. This same reduction will be passed on to retail dealers.

The tank wagon price to commercial contract customers in areas carrying a depressed structure will, in all cases, be the tank wagon price charged the open dealer in such areas.

Lease and license agreements are not to be extended to ramp garages, parking garages or downtown garages unless they come within the following definitions:

> The premises leased must contain pumps, at least one drive and a suitable service station building. This building must be a separate unit, fully set off by partitions so that complete possession could be given to the lessee by turning over the keys in case of termination of the agency.
>
> In addition to the above requirements, your drive-in service station, when painted with our colors, must have the appearance to the public of being a bona fide service station and not a freak curb outfit twisted to meet the requirements. The test should be—would the average man say this was a service station or a curb dealer? If there is the slightest doubt, our company does not want such an outlet signed up as a Lease and License account.

We will not permit the making of yard prices and supplying peddlers with products from our bulk plants. This does not apply to withdrawals by distributors from our bulk plants where the distributor assumes full responsibility for maintaining our marketing structure.

Yours very truly,

THE PENNZOIL COMPANY,
R. A. BROWNE,
Sales Director.

RABrowne/MCM

EXHIBIT NO. 1238

[Original document submitted by George B. Ingram]

THE PENZOIL COMPANY,
Oil City, Pa., July 12, 1933.

Post the following retail, tank wagon and dealers prices, effective July 13th, 1933, at all service stations and bulk plants in the state of Ohio.

	Pennzip	Pennzip Ethyl	White gas
Posted Service Station	20½¢	23¢	18¾¢
Posted Tank Wagon	17½¢	20¢	16¢
Net Service Station Cash Price	18½¢	21¢	16¾¢
Net Tank Wagon Delivery to Open Dealers and Commercial Accounts	15½¢	18¢	15¼¢
Net Cost T. W. delivery to authorized agents including rentals	15¢	17½¢	14¾¢
Tank Car (base) price to jobbers	13¢	15½¢	12¾¢
Tank Car (base) price to jobbers Excluding Tax	7½¢	10¢	7¼¢

KEROSENE STRUCTURE

	All counties	Except Mahoning & Trumbull Co.
Service Station	13¢	12¢
Tank Wagon	11½¢	10½¢
Dealer & Commercial	9¢	8¢

Yours very truly,

THE PENNZOIL COMPANY,
W. R. BIRKMAYR,
Manager Gasoline Division.

ML

EXHIBIT No. 1239

[Original document submitted by George B. Ingram]

THE PENNZOIL COMPANY,
Oil City, Pa., June 12, 1933.

Post the following retail, tank wagon and dealers prices, effective June 14th, 1933 at all service stations and bulk plants in the state of Ohio.

	Pennzip	Pennzip ethyl	White gas
Posted Service Station	17½¢	20¢	15¾¢
Posted Tank Wagon	14½¢	17¢	13¢
Net Service Station Cash Price	15½¢	18¢	13¾¢
Net Tank Wagon Delivery to Open Dealers and Commercial Accounts	12½¢	15¢	12¼¢
Net Cost T. W. delivery to authorized agents including rentals	12¢	14½¢	11¾¢
Tank Car (base) price to jobbers	10¢	12½¢	9¾¢
" " " " " " Excluding tax	5¢	.7½¢	4¾¢

Yours very truly,

THE PENNZOIL COMPANY,
W. R. BIRKMAYR,
Manager Gasoline Division.

ML Z

EXHIBIT No. 1240

[Original document submitted by George B. Ingram]

THE PENNZOIL COMPANY,
Oil City, Pa., July 28, 1933.

Post the following retail, tank wagon and dealers prices, effective July 28th, 1933, at all service stations and bulk plants in the State of Ohio:

	Pennzip	Pennzip Ethyl	White gas
Posted Service Station	20½¢	22½¢	18¾¢
Posted Tank Wagon	17½¢	19½¢	16¢
Net Service Station Cash Price	18½¢	20½¢	16¾¢
Net Tank Wagon Delivery to Open Dealers and Commercial Accounts	15½¢	17½¢	15¼¢
Net Cost T. W. Delivery to authorized agents including rentals	15¢	17¢	14¾¢
Tank Car (base) price to jobbers	13¢	15¢	12¾¢
Tank Car (base) price to jobbers excluding tax	7½¢	9½¢	7¼¢

KEROSENE STRUCTURE

	All counties	Excepting Mahoning & Trumbull
Service Station	14¢	13¢
Tank Wagon	12½¢	11½¢
Dealer and Commercial	10¢	9¢

Yours very truly,

THE PENNZOIL COMPANY,
W. R. BIRKMAYER,
Manager Gasoline Division

ML L.

EXHIBIT No. 1241

[Original document submitted by George B. Ingram]

THE PENNZOIL COMPANY,
Oil City, Pa., August 8, 1933.

Post the following retail, tank wagon and dealer prices, effective August 10th, 1933, at all service stations and bulk plants in the State of Ohio.

	Pennzip	Pennzip Ethyl	White gas
Posted Service Station	20¢	22¢	18½¢
Posted Tank Wagon	17¢	19¢	15¾¢
Net Service Station Cash Price	18¢	20¢	16½¢
Net Tank Wagon Delivery to Open Dealers and Commercial Accounts	15¢	17¢	14¾¢
Net Cost T. W. Delivery to authorized agents including rentals	14½¢	16½¢	14¼¢
Tank Car (base) price to jobbers	12½¢	14½¢	12½¢
Tank Car (base) price to jobbers excluding tax	7¢	9¢	7¢

The above prices constitute a reduction of ½¢ a gallon on Pennzip and Pennzip Ethyl gasoline and ¼¢ a gallon on white gasoline. You will also note a ¼¢ a gallon increase in discount to dealers on White gasoline.

KEROSENE STRUCTURE

	All counties	Excepting Mahoning & Trumbull
Service Station	14¢	13¢
Tank Wagon	12½¢	11½¢
Dealer and Commercial	10¢	9¢

Yours very truly,

THE PENNZOIL COMPANY,
W. R. BIRKMAYR,
Manager Gasoline Division.
L.

ML

EXHIBIT No. 1242

[Original document submitted by George B. Ingram]

SEPTEMBER 1, 1933.

Post the following retail, tank wagon and dealer prices, effective September 2nd, 1933 at all service stations and bulk plants in the State of Ohio.

	Pennzip	Pennzip ethyl	White gas
Posted Service Station	18¢	20¢	16½¢
Posted Tank Wagon	17¢	19¢	15¾¢
Net Tank Wagon Delivery to Open Dealers and Commercial Accounts	15¢	17¢	14¾¢
Net Cost T. W. Delivery to authorized agents including rentals	14½¢	6½¢	14¼¢
Tank Car (base) price to jobbers	12½¢	14½¢	12½¢
Tank Car (base) price to jobbers excluding tax	7¢	9¢	7¢

NOTE.—(1) 2¢ discount for cash will be eliminated; (2) All commercial contracts for discounts will be discontinued—you will immediately notify contract holders that under the clause allowing us to cancel on 10 days notice that their contract is hereby canceled.

KEROSENE STRUCTURE

	All counties	Excepting Mahoning and Trumbull
Service Station	14¢	13¢
Tank Wagon	12½¢	11½¢
Dealer and Commercial	10¢	9¢

Yours very truly,

THE PENNZOIL COMPANY,
W. R. BIRKMAYR,
Manager Gasoline Division.

ML L.

EXHIBIT NO. 1243

[Original document submitted by George B. Ingram]

THE PENNZOIL COMPANY,
Oil City, September 6, 1933.

Post the following retail, tank wagon and dealer prices, effective September 7th, 1933, at all service station and bulk plants in the State of Ohio:

	Pennzip	Pennzip Ethyl	White gas
Posted Service Station	13½¢	15½¢	12¢
Posted Tank Wagon	12½¢	14½¢	11¼¢
Net Tank Wagon Delivery to Open Dealers and Commercial Accounts	10½¢	12½¢	10¼¢
Net Cost T. W. Delivery to authorized agents including rentals	10¢	12¢	9¾¢
Tank Car (base) price to jobbers	8¢	10¢	8¢

All prices plus 4¢ State and 1½¢ Federal Taxes.
(In line with the code, all taxes must be shown separately).

Kerosene structure

	All counties	Excepting Mahoning and Trumbull
Service Station	14¢	13¢
Tank Wagon	12½¢	11½¢
Dealer and Commercial	10¢	9¢

Yours very truly,

THE PENNZOIL COMPANY,
W. R. BIRKMAYR,
Manager Gasoline Division.

ML 2.

EXHIBIT NO. 1244

[Original document submitted by George B. Ingram]

GO-1 15M-10-32

THE PENNZOIL COMPANY

INTER-OFFICE CORRESPONDENCE

FEBRUARY 28, 1934.

TO: BRANCH MANAGERS & DISTRIBUTORS.
FROM: R. A. BROWNE.
SUBJECT: ———.

GENTLEMEN: Under dates of February 20th and 21st, Hon. Harold L. Ickes, Administrator of the Petroleum Code, signed orders governing the sales of motor fuels to commercial consumers, and which orders become effective immediately.

Under these orders, all commercial consumer contracts made since August 19, 1933, which allow discounts on a quantity basis, or made at a flat price or with top price provisions, are declared in violation of Article V, Rule 3, paragraph 7, of the Petroleum Code, and are declared null and void and of no effect whatsoever.

Immediately on receipt of this letter, you will cancel all such contracts and endeavor to renew them on the official commercial consumer contract, form C. D. 1, copy of which is enclosed, and a supply is being forwarded today, under separate cover. This contract is self-explanatory, must be carefully studied by you and lived up to in every instance. Minimum delivery in Pennsylvania, New York, and West Virginia, will be one hundred (100) gallons; in Ohio twenty-five (25) gallons. This must be filled in under "Prices" and also in the "Second" clause of contract.

It is also provided that the tank wagon price shall not be lower than 2¢ under the retail service station price for the equivalent product.

Copy of new price schedule is attached which you will post and make effective at once.

The order of Secretary Ickes applies to everyone dealing in petroleum products, and if, after a reasonable period, you find a continued violation of Article V, Rule 3, paragraph 7, of the Code, the matter should be reported immediately to your local Code Committee, sending a copy of your complaint to this office.

No consumer can take advantage of dealer price schedules who does not resell at least 85% of the gasoline which he purchases, nor can he resell in whole or in part, to employees or other persons.

A separate commercial consumer contract, form C. D. 2, is provided for sale of gasoline and other motor fuels to tank car purchasers.

We are prepared to furnish both of the contract forms referred to for use by our distributors, printed with blank spaces for the insertion of their names, at the cost of printing and handling.

Yours very truly.

THE PENNZOIL COMPANY,
R. A. BROWNE,
Sales Director.

RAB/MCM

Prices effective March 1, 1934—Ohio State-wide structure

	Service station	Consumer tank wagon	Divided dealer	Undivided dealer
Pennzip Ethyl	15½	13½	12	11½
Pennzip	13½	11½	10	9½
Third Grade	12	10½	9½	9
Kerosene	14	12½	10	10

To all gasoline prices add—
Federal Tax .... 1¢
State Tax .... 4¢

5¢

To all kerosene prices add—
Federal Tax .... 1¢

Tank wagon deliveries of Gasoline less than twenty-five (25) gallons take service station prices.

Exception.—In Summit and Mahoning Counties, to meet local competition, you will post a tank wagon price on gasoline to consumers of one (1¢) cent lower than that shown above on the respective products.

In Summit, Trumbull, Mahoning and Portage Counties, and the city of Wadsworth in Medina County, Kerosene structure is one (1¢) cent under state-wide structure.

RAB/MCM.

Exhibit No. 1245

[Original document submitted by George B. Ingram]

Prices effective Oct. 13, 1934—Ohio State-wide structure

	Service station	Consumer tank wagon	Divided dealer	Undivided dealer
Pennzip Ethyl	14	12	10½	10
Pennzip	12	10	8½	8
Third Grade	10½	9½	8	7½
Kerosene	13	11½	9	9

To all gasoline prices add—
Federal Tax 1
State Tax 4¢

5¢

To all kerosene prices add—
State Tax 1¢

Tank wagon deliveries of Gasoline less than twenty-five (25) gallons take service station prices.

Tank wagon gasoline price to consumers in Summit County will be 1¢ less than State-Wide Structure, on Pennzip and Pennzip Ethyl Gasoline and ½¢ less on Third Grade Gasoline.

Effective October 13th—a reduction of one-half (½¢) cent a gallon on all grades of gasoline.

The Pennzoil Company,
Oil City, Pa., October 12, 1934.

ML

Exhibit No. 1246

[Original document submitted by George B. Ingram]

Prices effective November 26, 1934—Ohio State-wide structure

	Service station	Consumer tank wagon	Divided dealer	Undivided dealer
Pennzip Ethyl	14½	12½	11½	11
Pennzip	12½	10½	9½	9
Third Grade	11	10	9	8½
Kerosene	11	11	8	8

To all gasoline prices add—
Federal Tax 1¢
State Tax 4¢

5¢

To all kerosene prices add—
State Tax 1¢

Undivided dealer price includes any rental paid by us on lease and license agreements.

Tank wagon deliveries of Gasoline less than twenty-five (25) gallons take service station prices.

Effective November 26th—change in dealer gasoline margins, as per our letter of instructions of November 17, 1934.

Exception—Tank wagon gasoline price to consumers in Summit County will be 1¢ less than State-Wide Structure, on Pennzip and Pennzip Ethyl Gasoline and ½¢ less on Third Grade Gasoline.

Exception—Summit County—Kerosene:
Service Station—11¢, tax inc.
Tank Wagon Price to Consumers—11¢, tax inc.
Tank Wagon Price to Resellers and Commercial Consumers—8¢, tax inc.

THE PENNZOIL COMPANY,
Oil City, Pennsylvania, November 26, 1934.
ML.

EXHIBIT No. 1247

[Original documents submitted by George B. Ingram]

THE PENNZOIL COMPANY,
COR. 5TH & SCHROYER AVE., S. W.,
Canton, Ohio, March 20, 1935.

NEW DEAL OIL COMPANY,
19th & Cleveland N. W., Canton, Ohio.

GENTLEMEN: Prices on all grades of gasoline advance ½¢ per gallon Thursday, March 21st.

Yours very truly,

THE PENNZOIL COMPANY,
CANTON BRANCH,
R. A. CAVANAUGH.

A. Z.

RAC:AZ

Prices effective March 21, 1935—Ohio State-wide structure

	Service station	Consumer tank wagon	Divided dealer	Undivided dealer
Pennzip Ethyl	15	13	12	11½
Pennzip	13	11	10	9½
Third Grade	11½	10½	9½	9
Kerosene	11	11	8	8

To all gasoline prices add—

Federal Tax	1¢
State Tax	4¢
	5¢

To all kerosene prices add—

State tax	1¢

Undivided dealer price includes any rental paid by us on lease and license agreements.

Tank wagon deliveries of Gasoline less than twenty-five (25) gallons take service station prices.

Effective March 21st, 1935—all grades of motor fuel advanced ½¢.

THE PENNZOIL COMPANY,
Oil City, Pennsylvania, March 19, 1935.
ML

Prices effective April 25, 1935—Ohio State-wide structure

	Service station	Consumer tank wagon	Divided dealer	Undivided dealer
Pennzip Ethyl	15½	13½	12½	12
Pennzip	13½	11½	10½	10
Third Grade	12	11	10	9½
Kerosene	11½	11½	8½	8½

To all gasoline prices add—
Federal Tax 1¢
State Tax 4¢

5¢

To all kerosene prices add—
State Tax 1¢

Undivided dealer price includes any rental paid by us on lease and license agreements.

Tank wagon deliveries of Gasoline less than twenty-five (25) gallons take service station prices.

Effective April 25, 1935—all grades of motor gasoline advanced ¼¢.

Exception—Kerosene:
Summit County—11½¢ Service Station & Tank Wagon Tax Included.
Portage County—8½¢ Dealers Tax Included.

The Pennzoil Company,
Oil City, Pennsylvania, April 24, 1935.

ML

The Pennzoil Company,
Canton, Ohio, May 28, 1935.

New Deal Oil Company,
19th & Cleveland N. W., Canton, Ohio.

Gentlemen: Effective May 29th, all grades of gasoline will advance one-half cent per gallon throughout Ohio.

Yours very truly,

The Pennzoil Company,
Canton Branch.
R. A. Cavanaugh.

RAC:AZ

Prices effective April 14, 1935—Ohio State-wide structure

	Service station	Consumer tank wagon	Divided dealer	Undivided dealer
Pennzip Ethyl	15¼	13¼	12¼	11¾
Pennzip	13¼	11¼	10¼	9¾
Third Grade	11¾	10¾	9¾	9¼
Kerosene	11	11	8	8

To all gasoline prices add:
Federal Tax 1¢
State Tax 4¢

5¢

To all kerosene prices add: State Tax 1¢

Undivided dealer price includes any rental paid by us on lease and license agreements.

Tank wagon deliveries of Gasoline less than twenty-five (25) gallons take service station prices.

Effective April 14, 1935, all grades of motor gasoline advanced ¼¢.

Exeception—Kerosene:
Summit County—11¢ Service Station Tax Included.
Portage County—8¢ Dealers, Tax Included.

THE PENNZOIL COMPANY,
Oil City, Pennsylvania, April 13, 1935.
ML

THE PENNZOIL COMPANY,
Oil City, Penn'a.

Prices effective March 15, 1937—Ohio State-wide structure

	Service Station	Consumer Tank Wagon	Divided Dealer	Undivided Dealer
Pennzip Ethyl		14¢	12½¢	12¢
Pennzip		12¢	11¢	10½¢
Transport		11½¢	10½¢	10¢
Kerosene				

To all gasoline prices add:
Federal Tax 1¢
State Tax 4¢
To all Kerosene prices add: State Tax 1¢

Effective March 15, 1937, gasoline declined 1¢, making retail price 19¢ taxes included.

EXHIBIT NO. 1248

[Original document submitted by George B. Ingram]

THE PENNZOIL COMPANY,
Oil City, Pa., November 17, 1934.

To Ohio Branch Managers and Distributors.
Subject: Price Structure for the State of Ohio.

GENTLEMEN: This is to advise you of a new price schedule which we will put into effect on November 26th. You will notify all your dealers.

The matter of dealer and distributor margins is recognized as one of the most important problems in the marketing branch of our industry, and it is generally recognized that these margins are too wide and will have to be narrowed if the refiner, distributor and dealer are to protect themselves against the inroads of price cutters.

The Stabilization Committee of Region No. 3, under date of October 27th, recommended for this region a reduction in dealer margins to 3½¢ on Ethyl and the house brand and 2½¢ on third grade as a maximum, with a minimum of 3¢ on Ethyl and the house brand and 2¢ on the 3rd grade, but no recommendation was made as to how and under what conditions adjustments should be made between maximum and minimum.

An ideal margin structure would seem to be one in which refiner, distributor and dealer shared in good as well as bad periods, and which had sufficient flexibility to meet competition as it occurred. Both dealers and distributors realize that one of the difficulties in meeting competition has been the burden of a rigid and inflexible margin. We are, accordingly, adopting a sliding scale of margins varying with the spread between the base tank car price and the local service station price.

The Standard Oil Company of Ohio's tank car price for above 65 octane gasoline is based upon the low of the Oklahoma refinery market for 63–70 octane gasoline, as published in Platt's Oilgram, plus 2½¢. The difference to the nearest ½¢ between that base price, to wit: The Standard Oil Company's posted tank car price in Platt's Oilgram, and the local service station price is the total spread upon which the dealer and distributor margins will be based.

On this basis, effective November 26th, our margins on Pennzip for distributors and undivided dealer accounts will be as follows:

When the spread is	6½¢	6¢	5½¢	5¢	4½¢
The undivided dealer's margin will be	4	3¾	3½	3¼	3
The distributor's margin below the undivided dealer tank wagon price will be	2¼	2⅛	2	2	2
Total distributor and dealer margin	6¼¢	5⅞¢	5½¢	5¼¢	5¢

The margin to undivided dealer accounts for Pennzip Ethyl will be the same as above, and for third grade, or Penn American, will be 1¢ less. The margin to divided dealer accounts will be ½¢ less on all grades.

Branch Managers and Distributors will post, at all bulk plants, prices in effect from time to time in their territory on the above basis.

We believe that the foregoing schedule of margins, in that it has the same minimum as that recommended by the Stabilization Committee for Region No. 3, but has a ½¢ higher maximum, should be more desirable to the dealers than that recommended by the Stabilization Committee, and it seems clear that the new schedule outlined above gives the marketing industry much greater flexibility in the meeting of competition than does the present rigid, flat structure.

Very truly yours,

THE PENNZOIL COMPANY,
——— ———, *Sales Director.*

RABrowne/MCM

THE PENNZOIL COMPANY,
Oil City, Pa., November 23, 1934.

All Distributors in Ohio.

GENTLEMEN: The contract under which we are supplying you with your gasoline provides, under "Minimum Price", specific net-back figures at our refinery. Due to the general gasoline price structure, we have not been enforcing this clause in the contract, with the result that our company has been standing heavy losses in connection with the manufacture and sale of its gasoline.

In view of the new marketing program, which we are putting into effect on the morning of November 26th, in Ohio, this is to advise you that effective on that date and until further advised, or the retail price adjusts itself to a point where the minimum clause would not be operative, it will be necessary for us to accept all orders at a price which will absorb a portion of the loss we have been sustaining.

This price, however, at no time will be less than the price which will be charged to distributors under the new distributor contract, which will become effective and written on and after November 26th. Copy of this new contract form was mailed you on November 17th.

We regret the general conditions which make this step on our part imperative, and we look for full cooperation on your part in immediately putting into effect the full program as scheduled for November 26th. We believe that eventually this will work to the benefit of all concerned.

Yours very truly,

THE PENNZOIL COMPANY,
R. A. BROWNE, *Sales Director.*

RABrowne/MCM

NOVEMBER 17, 1934.

To Pennzoil Dealers.

GENTLEMEN: Due to the disorganized price conditions in the retailing of gasoline, effective November 26th, and until further notice, we propose to place our dealers on a margin based on the difference between the tank car price, as posted by the Standard Oil Company of Ohio, and our posted service station price.

The difference between these two prices, at the present time, is 5½¢, which will allow us to give the undivided dealer 3½¢ and the divided dealer 3¢.

Under this method, the dealer's margin will be increased as the spread between tank car and service station price increases, and will be automatically decreased where this spread is reduced either in depressed price areas or for other causes.

We believe that the policy covered by this revised price schedule is necessary to protect the interest of ourselves as well as our retail dealers, and believe that our dealers will see the fairness of the policy

The schedule is as follows:

Differential between Delivered Tank Car Price & Service Station Price	To Undivided Dealers	To Divided Dealers
6½¢	4¢	3½¢
6	3¾	3¼
5½	3½	3
5	3¼	2¾
4½	3	2½

Yours very truly,

EXHIBIT NO. 1249

[Original document submitted by George B. Ingram]

A. A. STAMBAUGH,
Vice President.

THE STANDARD OIL COMPANY

(AN OHIO CORPORATION)

#98

CLEVELAND, OHIO, *August 25, 1939.*

MOTOR GASOLINE

TO DIVISION MANAGERS:

In connection with our Motor Gasoline Price Structure previously announced, kindly note the following changes:

TANK WAGON

Stark County—City of Canton

Change from: Tank wagon price exception #2—13*
To: Tank wagon price exception #3—12½*
Q. D. A. #5 remains in effect

Tank wagon price exception #3

	Prices to consumers (inclusive of tax)	Prices to resellers & agents (inclusive of tax)		
	Tank Wagon Price to Consumers	Undivided Accounts Except Authorized Agents	Divided Accounts	Authorized Agents Excl. of 0.5¢ Rental
Sohio Supreme	17.5	14.0	14.5	14.5
Sohio X-70	15.5	12.5	13.0	13.0
Renown	15.5	12.5	13.0	13.0

SERVICE STATION

Stark County—City of Canton

Change from: Service station price exception #2—16*
To: Service station price exception #5—14½*
Service station price exception #5 will read as follows:

*Pencil notation.

Service station price exception #5

	Net	Plux tax	Total
Sohio Supreme	11.5	5	16.5
Sohio X-70	9.5	5	14.5
Renown	9.5	5	14.5

Above changes are effective Saturday, August 26, 1939.

Very truly yours,

——— ———.

EXHIBIT No. 1250

[Original document submitted by George B. Ingram]

(The following were post cards all addressed to New Deal Oil, 1441 Tusc. St. W., Canton, Ohio:)

Mr. Gasoline Merchant, your business is in a hell of a condition, but what are you doing about it? Well if you don't do something and do it damm quick it is going to be too late. Can't you spend at least one hour each month to protect the most vital thing in life to you (your business) come to the meeting of your fellow dealers Monday eve. at 9 p m at Keefer's Hall, Mahoning Road N. E., Canton, Ohio.

The Stark County Retail Gasoline Dealer's Association will hold its monthly meeting Monday Evening Sept. 12, 1938 at 9.00 O'clock at Keefer's Hall 830 Mahoning Road N. E., Canton, Ohio.

You are asked to be present as the price situation in the county is precarious and this will be taken up as well as several other urgent problems.

R. G. SCHIMKE, *Sec'y.*

The regular monthly meeting of the Stark. County Independent Gasoline Retailer's Ass'n. will be held at 9 O'clock P. M. Monday Oct. 3 at Kiefer's Hall 830 Mahoning Road N. E. You are urgently requested to be present and bring a fellow dealer member or non-member. Refreshments after meeting. Association suggested retail price 20½¢ 18½¢ 17¢.

R. G. SCHIMKE, *Sec'y.*

At nine o'clock, Monday evening, November 7th, the Stark County Independent Gasoline Retailers Ass'n will hold its monthly meeting at Keefer's Hall, 830 Mahoning Rd. N. E. Canton (Directors' meeting at eight o'clock sharp).

Mr. DeWitt M. Emery, President of the National Small Business Men's Ass'n, will address our meeting discussing retail problems and the ways and methods used to solve them. Let's have a good turnout and show the strength of our organization.

R. G. SCHIMKE, *Sec'y.*

ACTION

Stark County Gasoline Dealer's Mass Meeting Thursday Evening Dec. 29, 1938 at 9 O'clock P.M. I. O. O. F. (Odd Fellows) Temple 1439 Cleveland Ave. N. W. Canton, Ohio. Ample parking front and rear. Come one come all. Admittance by this card or registration at entrance.

R. G. SCHIMKE, *Sec'y.*

ATTENDANCE SHOWS YOUR INTEREST IN YOUR BUSINESS

The regular monthly meeting of the STARK COUNTY GASOLINE RETAILERS ASS'N will be held on Monday, Jan. 9, 9:00 o'clock, at Keefer's Hall 830 Mahoning Road, N. E. Canton, Ohio.

Because of the critical condition of the market, it behooves every dealer to be present to help work out some solution for the present situation.

Refreshments will be served.

ATTENDANCE COMMITTEE.

Effective Saturday Jan. 21st, The Standard Oil Co. will drop both the tank-wagon and retail price of gasoline one cent.

The suggested retail price by the Association will be fifteen cents.

R. G. Schimke, *Sec'y.*
The Stark County Gasoline Retailer's Assn.

IMPORTANT MEETING

Stark County, Gasoline Retailers Ass'n. will hold their regular monthly meeting Monday Eve. March 6th at 9:00 o'clock at Keefer's Hall, 830 Mahoning Road.

The three bills that our Association have introduced into the State Legislature will be discussed by Mr. Hugh Pallister, chairman of the State Legislative Committee who is also a Sohio Dealer and a director from Ohio of the National Ass'n.

Refreshments.

R. G. Schimke, *Sec'y.*

NOTICE

Effective this date October 7, 1939 the price of gasoline will advance from tank wagon to you it is suggested that the retail price be posted at 16¢ for regular and 18¢ for high test. It is also suggested and requested that all circus price signs be removed at once. Let us do something for ourselves without being forced to it.

Exhibit No. 1251

[Submitted by George B. Ingram]

[Rep. Oct. 7, 1939]

Gas Price Increased in Stabilizing Move—Further Adjustment Expected After Half Cent Rise.

Steps were taken today toward stabilizing the gasoline business which has been in a chaotic condition in the Canton area during the summer as a result of price cutting.

On the heels of a general increase of half a cent by The Standard Oil Co., effective throughout Ohio, Canton retailers increased their prices and further adjustments were said to be in progress.

There was still a variance in prices this morning. Company owned stations of Standard Oil and some of the other distributors were charging 15 cents for regular gas and 17 cents for the higher grade while most of the independents were charging 16 and 18 cents for corresponding grades. Most of the stations, both company owned and independents, had been charging 14½ cents for regular gas during most of the summer.

The new price fixed for the Cleveland area today was 18 and 20 cents.

"There is a good prospect that prices will be stabilized at a reasonable figure by next week," said M. M. Malloy, president of independent dealers.

"Many of the filling stations were practically giving away gas all summer but we are hoping that a reasonable margin porofit will be established."

[Plain Dealer, Oct. 7, 1939]

Seeks Gas' Price Standardization

(From Plain Dealer Bureau)

Canton, O., Oct. 6—In the hope of standardizing gasoline prices in view of an expected rise tomorrow morning, the Stark County Retail Gasoline Dealers' Association tonight announced that the suggested price to their members would be 16 cents for standard and 18 cents for high-test fuel.

M. M. Malloy, president of the association, said tonight that the suggested price was being announced in an attempt to bring an equal price level at all stations.

The rise is expected to affect only dealers in the city of Canton.

Dealers Meet Gas Price Cut—Independents to Give 16 Cent Scale 30 Day Trial

Independent gasoline dealers of Canton voted at a meeting Thursday night in I. O. O. F. temple to meet the new Standard Oil Co. price of 16 cents a gallon for regular gasoline for a 30 day period during which they will negotiate with oil firm officials in an effort to stabilize prices.

"The 30 day test will give us a chance to see how many of the independents have their shirts left at the end of that time," said M. M. Malloy, president of the association.

Standard cut the tank wagon price this week from 14.5 cents to 13.5 cents and at the same time reduced the retail price at its company owned stations from 18 cents to 16 cents for regular grades of gas.

For the last two years independent companies have been charging half a cent more than Standard but at last night's meeting they voted to go the full way in meeting the new price. This means that the dealer's profit has been cut from four cents to 2.5 cents a gallon.

"Many dealers cannot stay in business on this margin of profit," said Mr. Malloy. "We had numerous meetings with the Standard people and succeeded in holding off this action for some time. The same situation prevails in counties all around us and it puts a critical problem up to the dealers.

"There is no price war here. We are merely meeting a situation which has been forced on us. We expect to put the problem up to top men in the Standard organization in the hope that we can make them see that price cutting will not increase sales but will merely result in the ruin of dealers who can't maintain their stations and pay their help at these prices.

"Unless the situation is corrected there will be a lot of men out of business and out of jobs but we are going to get along the best we can for 30 days hoping that a more sensible arrangement can be worked out within that time."

Premium quality gasoline was selling today at 18 cents and some of the stations offered a special bargain grade at 15 cents.

Gas Dealers Study Price Cutting Curb

Possibility of drafting federal, state or city legislation to prevent price cutting wars among gasoline distributors was discussed Monday night at a meeting of independent dealers in Keefer's hall.

"The dealers decided to sit tight and continue to meet Standard Oil's 16 cent price," said M. M. Malloy, president of the dealer's association. "A few instances of cutting below the 16 cent level were taken up and members of the association agreed to stay in line," Mr. Malloy said.

Gas Dealers Confer on Price Situation

Independent gasoline dealers of the Canton area discussed the retail price situation at a meeting Tuesday night in Keefer hall but there was no definite action.

M. M. Malloy, president, said that negotiations were held with the Standard Oil Co. in an effort to get a uniform price throughout the county but that nothing was accomplished. At present the retail price of gasoline is 15 cents in Canton and 16 cents outside the city.

Independent dealers have protested the action of producers in cutting a cent a gallon off their margin of profit.

Roger B. Kelley addressed the dealers.

Independents Put Gas Up Half Cent—Sohio Announces Refusal To Follow Increase; Cites "Racket"

A gasoline price war involving the eternal triangle of the petroleum industry in the county—the independent operators, the union and the major oil companies—loomed last night as the company-owned stations refused to follow the price increase fixed by the Master Gasoline Operators Association.

The increase of one-half cent per gallon for all grades was made by the independents yesterday after the major oil companies had refused the operators who sell their products an increase in their margin of profit.

The dispute centered around the Standard Oil Co. of Ohio, which employs no union operators in its company-owned stations and no union drivers on its gasoline trucks. Standard Oil refused to raise the price of gasoline along with the independents and was followed by the other major oil companies.

Of the 1,500 gasoline stations in Cuyahoga County, 1,427 are operated by independents, who are either outright dealers or lessees. Of the 73 company-owned stations in the county, which have refused to advance prices with the independents, 61 are Standard Oil stations. The others are Cities Service, Socony-Vacuum and Sinclair Refining Co.

Phil Hannah, business representative of the Gasoline Station Operators Union, was outspoken in his denunciation of the company-owned stations that refused to follow the price rise.

"Why is it that the company that attempted to raise prices a few weeks ago and was balked by another company should refuse to cooperate now that it is absolutely necessary to increase the price of gasoline?" Hannah asked.

It was understood that the union, which is supporting the efforts of the independents to raise prices to meet the new union wage scale, would picket stations that refused to meet the new price.

From certain sources it was intimated that the independents that raised prices might be in violation of the Valentine Act, state law governing conspiracy to fix prices.

A statement by A. A. Stambaugh, general sales manager of the Standard Oil Co. of Ohio, follows:

"The Standard Oil Co. of Ohio will not follow the raise on gasoline of one-half cent a gallon put in effect this morning by gasoline dealers.

"The issue at this time is not whether present prices are too low but rather whether the price of gasoline to the public in the future shall be fixed by collusion between marketers and a labor union.

"Labor, of course, has the right to enter agreements fixing wages, hours, working conditions, etc., but steps far beyond its province when it undertakes, either through coercion or collusion, to enforce prices it believes are necessary to cover such increased costs.

"The Standard Oil Co. of Ohio opposes the turning of our industry into a racket at the expense of the consumer after the fashion of Seattle.

"Our company has no quarrel with labor. Our wage rates have been and are as high or higher than the corresponding union rates at all times and our employees have bargained collectively through such agencies as they themselves have chosen.

"At a time when gasoline consumption for the first four months of this year has increased in this area in excess of 20 per cent. with a consequent reduction in costs ample to cover all wage increases, and more, it is clear that a higher price is not now in order."

"Exhibit No. 1252," introduced on p. 8980, is on file with the Committee.

"Exhibit No. 1253," introduced on p. 8980, is on file with the Committee.

"Exhibit No. 1254," introduced on p. 8985, is on file with the Committee.

Exhibit No. 1255

[Submitted by George B. Ingram]

A. A. Stambaugh,
Vice President.

The Standard Oil Company
(An Ohio Corporation)

Cleveland, Ohio, *June 14, 1934.*

To Division Managers:

The practice of our major competitors in permitting unbranded gasolines in their outlets to be sold in conjunction with their regular house brands, but with all the appearances to the trade that such unbranded gasolines come from that marketer, is a practice that is upsetting our market. It will be necessary for

the state-wide price to be reduced to a point where our third grade gasoline meets this unbranded gasoline unless such conditions are corrected.

Kindly give me a report immediately on the number of such outlets in your division, together with the name of the marketers who are permitting such a practice.

Very truly yours,

AAS:G ——— ———

EXHIBIT No. 1256

[Submitted by George B. Ingram]

THE PENNZOIL COMPANY,
Oil City, Pa., November 14, 1934.

NEW DEAL OIL COMPANY,
Canton, Ohio.

(Attention Mr. Ingram.)

GENTLEMEN: It has been called to our attention that you are soliciting dealer business in the city of Canton at a guaranteed 4¢ margin for one year.

This is contrary to the accepted structure in that area and under the terms of our contract you are not permitted to sell our branded mecrhandise at other than our regular posted prices. Inasmuch as your offer of a guaranteed 4¢ margin is contrary to our policy, we must request that you cease such solicitation immediately.

We hope that our information on this matter is incorrect and that you have not been making such offers. We are calling it to your attention, however, so that you will know definitely what our policy is on such solicitations.

Yours very truly,

THE PENNZOIL COMPANY,
W. R. BIRKMAYR,
Manager Gasoline Division.

WRB:ML

Prices effective November 10, 1934—Ohio State-wide structure

	Service station	Consumer tank wagon	Divided dealer	Undivided dealer
Pennzip Ethyl	14½	12½	11	10½
Pennzip	12½	10½	9	8½
Third Grade	11	10	8½	8
Kerosene	13	11½	9	9

To all gasoline prices add—
Federal Tax 1¢
State Tax 4¢
5¢

To all kerosene prices add—
State Tax 1¢

Tank wagon deliveries of Gasoline less than twenty-five (25) gallons take service station prices.

Effective November 10th—an advance of one-half (½¢) cent a gallon on all grades of gasoline.

Tank wagon gasoline price to consumers in Summit County will be 1¢ less than State-Wide Structure, on Pennzip and Pennzip Ethyl Gasoline and ½¢ less on Third Grade Gasoline.

Exception—Summit County—Kerosene:

Service Station—11¢, tax inc.
Tank Wagon Price to Consumers—11¢, tax inc.
Tank Wagon Price to Resellers and Commercial Consumers—8¢, tax inc.

THE PENNZOIL COMPANY,
Oil City, Pennsylvania, November 10, 1934.

ML

EXHIBIT NO. 1257

STATEMENT PREPARED FOR THE TEMPORARY NATIONAL ECONOMIC COMMITTEE BY H. H. ANDERSON, VICE PRESIDENT, SHELL OIL COMPANY, INC., ST. LOUIS, MISSOURI

CONTENTS

EMPLOYMENT AND WORKING CONDITIONS IN THE PETROLEUM INDUSTRY

The Petroleum Industry has contributed notably to America's supremacy in the industrial world and the development of the "American Standard of Living." All industry as well as the home is increasingly dependent upon the 300-odd petroleum products. The extensive use of oil-burning locomotives and ships, industrial and domestic oil-burning furnaces, and gasoline and Diesel engines, and innumerable special applications of petroleum, have made life fuller and less arduous for most of our population.

Consider for example the influence of gasoline and engine lubricants in the transportation field. They have made possible the automobile, motorcycle, motor boat, and aeroplane—magic carpets that have brought improved health, widening of geographic knowledge ond a narrowing of distances. They have played major roles in developing highways for military, commercial, and pleasure use. They have strengthened our national defenses, advanced our position in the world of trade and added to our national wealth.

As a further contribution to the nation's well-being, the Petroleum Industry and its consumers in 1938 paid almost $1,278,000,000 for taxes on property, processes and products, which sum represents about one-eighth of all taxes paid in the nation.

In the quantity, quality and prices of its products and services to consumers during the last fifteen years the Industry has made outstanding improvements. Gasoline production has kept pace with a 225 percent increase in demand, far outstripping that of any other essential commodity. A 60 percent increase has been made in the use of ingredients essential to improved engine power and efficiency. And the Industry's price of gasoline to the consumer has simultaneously decreased 31 percent, setting a remarkable record relative to changes in general commodity prices. The influence of this record is vast when it is remembered that there is now one motor vehicle to every 4.4 persons in the United States.

These improvements in products and services have followed increases in sales volumes and operating efficiencies that have resulted from far-sighted research, aggressive outlay of capital, and unfettered technical and commercial competition within the Industry.

During the fifteen-year period 1923–1937, the Industry's gross investment is estimated to have increased from about $8,000,000,000 to $14,500,000,000. Common stockholders, owning a large portion of this investment, during the last ten years have received a low average return said to be less than the estimated average return for investors in all industry.

1. *The industry as an employer.*—As a creator of jobs, the Petroleum Industry has been a great contributor to the economic strength of America. One of the

largest integrated industries, it directly employs at least a million persons with an estimated annual payroll of $1,500,000,000. It spends each year about $1,150,000,000 for services and supplies, thereby providing jobs to nearly two hundred thousand other workers who furnish the services or manufacture the supplies.

The ever expanding and improving supply of cheap motor fuel has accelerated the growth of the automobile industry which uses major portions of the out-turn of mining, steel, rubber, textile, glass, chemical, road building and other large industries. The Petroleum Industry and the automobile industry together make possible the direct or indirect employment of over 6,000,000 American workers and the support of about one-seventh of our population.

And the Petroleum Industry has not been satisfied with mere job-creation—it has consistently led in bringing shorter hours, higher earnings and safer working conditions as well as greater opportunity and economic security to workers. Wage and hour and employment data published by various government bureaus or available from other sources give uncontrovertible evidence of the outstanding fair treatment being received by employees in the Petroleum Industry.

Compared to other reported industries, the average hourly rates in the Production, Refining, Pipe Line and Wholesale Marketing branches are amongst the highest, the normally scheduled hours are low and their week-to-week regularity—as indicated by actual hours worked—is almost level. The average weekly earnings are virtually the greatest. No other large industry can show steadier employment at such high wages, more regular delivery of full pay envelpes, or more generous distribution of supplementary employee benefits. Few industries enjoy greater friendliness and cooperation between employers and employees.

The Petroleum Industry is proud of its record as a job-creator, and of the high standards of employment and employee relations that it has developed without pressure from labor and without adverse cost increases to consumers.

In behalf of the American Petroleum Institute I am pleased to submit this factual statement as evidence of the accomplishment.

2. *Sources of factual data.*—The data herein presented has been obtained principally from three sources:

1. Government publications issued by the Bureau of Labor Statistics, the Bureau of the Census, and the Bureau of Mines, et cetera.
2. A survey of twenty of the larger oil companies made in 1934 by the Planning and Coordination Committee or Petroleum Code Authority. Certain of the information then obtained was presented to the Cole Committee during its Petroleum Investigation in 1934, and was printed in the report of that Committee. (Hearings on H. Res. 441, pages 276–283.) This survey is referred to hereinafter as the P. & C. Survey.
3. A survey of the same companies made within the last few months by the American Petroleum Institute. This included a questinnaire to bring up to date the information obtained in the P. & C. Survey, and also a questionnaire concerning other features of employment not included in the P. & C. Survey. This last survey is referred to hereinafter as the A. P. I. Survey.

Note.—The statistical tables printed in the Cole Committee report have been revised and extended to include the A. P. I. Survey in Tables 4a–4g. It will be noted that 31 reporting companies are shown; however, 14 of these are geographically segregated units comprising 3 companies. A net total of 20 integrated companies appear.

For simplicity and to avoid repetition in presenting the subject matter, this statement has been organized under features of employment rather than under the sources of data. In each instance, however, the source of the data is named in the supporting tables.

It may be explained that the Planning and Coordination Committee obtained statistics covering employment and pay roll conditions during the months of May in 1929, 1933, and 1934. These were collected to show the effect of the depression and of the N. I. R. A. on numbers employed, hours per week and man-hours per week worked, hourly wage rates, and monthly earnings. The months of May were selected because May 1929 was used during the N. I. R. A. days by Secretary Ickes as the base date of his order establishing wage differentials for skilled labor. Moreover, May 1929 preceded the depression, whereas May 1933 preceded and May 1934 followed the effective date of the N. I. R. A. May of 1936 and 1938 were chosen for the A. P. I. Survey to bring the earlier information up to date on a reasonably comparative basis.

The surveyed employees were divided into five groups. Four groups comprised separately the "wage earners" (customarily daily- or hourly-paid) in each of the four main branches—Production, Pipe Line Transportation, Refining, and Marketing. The fifth group comprised the clerical and supervisory staffs (usually monthly-paid) in all of the four branches, and included outside salesmen, office clerks, professional and technical employees, administrative employees, supervisors, and executives earning up to a maximum salary of $1,000 per month. The described division was selected for the P. & C. Survey so that the treatment of the wage-earners would not be obscured by averaging their earnings and working schedules with those of the salaried group.

Data on retail service station employees have been segregated from other Marketing data because since 1934 the majority of service stations owned or controlled by the reporting companies as of that date have been leased out to uncontrolled dealers. The Bureau of Internal Revenue has ruled that such dealers are not employees of the supplying company.

As mentioned, the American Petroleum Institute attempted to bring the P. & C. Survey up to date by collecting additional comparative statistics for the months of May in 1936 and 1938. the value of those surveys as supplementary to the work of the Bureau of Labor Statistics is that they include only data concerning the larger integrated units within the Industry. The progressive employment policies of these larger employers are responsible for the outstanding averages which now characterize the entire Industry.

The A. P. I. Survey brought full comparative returns from eighteen companies which in May 1938 employed 211,141 persons, including 9,627 employees in retail service stations. Based on 1934 activity statistics, these companies:

(*a*) Produced about 37 percent of the total U. S. crude oil.
(*b*) Transported about 69 percent of the total oil moved through pipe lines.
(*c*) Refined about 60 percent of the total runs to stills, and
(*d*) Sold at wholesale about 67 percent of the total motor fuel distributed in the domestic market.

Changes probably have taken place since 1934 in the relative percentages of the total industry activity among these companies inasmuch as the total activity has increased about one-third since that date. However, it has not been practicable for the Industry to determine such information since the Planning and Coordination Committee went out of existence.

The A. P. I. Survey also obtained data on wage rates, working hours and benefit data extending back twenty-five years in order to reveal the progressive trend of the Industry to improve conditions for the workers. Data also was obtained on distribution of payrolls in income levels, stability of employment, turnover, length of service, industrial disputes, expenditures with other industries, etc.

3. *Historical trend of improvement in working conditions.*—The last referred-to survey throws an interesting light on the historical improvement of employment conditions in the Industry. In Production (including Drilling), Pipe Line Transportation, and Refining, weekly earnings now average about 60 percent more than in 1914, hours worked per week average about 43 percent less than in 1914, and hourly wage rates have increased about 180 percent. In Marketing operations the changes have substantially paralleled those found in the other branches.

The changes at five-year intervals in these conditions are indicated in appended tabulations of data on typical key jobs. Table 1a shows simple numerical averages of all data obtained. (It can be criticised as an unweighted sampling, but it serves to demonstrate the trends.) Table 1b shows these same averages in terms of index numbers, the year 1914 being taken as base=100. Inasmuch as the time of changes varied in the three regions, separate index number tabulations—Tables 1c, 1d, and 1e respectively—have been prepared to cover operations in the Eastern (Pennsylvania and Ohio), Central (Mid-Continent and Gulf-Coast), and Pacific Coast (California) regions. These were compiled from typical individual company reports.

In 1914 the employees in 24-hour continuous shift operations—drilling, oil-lifting, pipe line pumping, and distilling—usually worked seven 12-hour shifts each week (or an 84-hour week). By the close of the World War very few were working more than seven 8-hour shifts, three instead of two being engaged on each 24-hour job. Prior to the N. I. R. A. most of these schedules gradually had been reduced to six 8-hour shifts (or a 48-hour week), with a seventh man dividing his time between each pair of 24-hour jobs. Despite the 43 percent reduction since 1914 in hours worked per week, i. e., from 84 to 48, the employees then received more wages per week than in 1914.

Some mechanics and laborers in field and pipe line day maintenance also worked seven 12-hour days (84 hours) each week in 1914, but most of them worked seven 9-hour days. Those in refinery maintenance usually worked six 9-hour days. These conditions also were progressively improved until the normal schedules became six 8-hour days, as then also characterized the shift operations. Similar weekly wage increases were given despite the reduced working hours.

During the depression following 1929, the Industry had to contend with an unusual condition. A well-sustained demand for products was enjoyed, but crude oil and refined product prices fell to levels which prevented profits on operations. Capital outlays for drilling and plant extension were reduced, and most of the employers—faced with economic necessity—introduced economies in operating practices that had appeared unimportant before that time. These circumstances reduced the total man-hours of work in 1932 and early 1933 and, wherever practical, most employers applied the then-popular "Share the Work" principle as a means of limiting dismissals to a minimum.

"Share the Work" reduced the weekly wages of the individual employees, but employers did not have their unit labor costs reduced except as they cut hourly wage rates. Many employers made no cuts in hourly rates during the 1929–1933 period, and others cut them not more than 10 percent. Table 1a shows an average hourly rate cut of only 1.1 percent.

Under the Petroleum Code, which was promulgated in August and September 1933, uniform maximum working hour limits were established at 36 average per week in Production, Pipe Line Transportation, and Refining. Employers limited the hours to the prescribed basis, and also made general upward adjustments of hourly rates which averaged 31 percent in those three branches. This action, reestablishing the average 1934 weekly wages at levels only 14 percent below 1929, was taken although a reduction of 33 percent in hours per week had been made during the 5 years. Most of the larger employers have not lengthened their weekly working hour schedules since the days of the N. I. R. A., but have elected to maintain those prescribed in the Petroleum Code.

Considering that the "cost of living index" in 1934 was only 80 percent of 1929, "real wages" were established in 1934 at 107 percent of 1929 levels. From 1934 to 1938, wage rates and actual weekly wages were further increased more than 25 percent, far outstripping the simultaneous 6 percent rise in "cost of living index."

The data in Marketing operations were not so fully reported back to 1914. However, in 1929 the average weekly earnings in that branch amongst the larger employers were about the same as those in Refining. In effecting the reduced work week under the Petroleum Code, average restorations of actual and real wages in 1934 and 1938 for Marketing employees were similar to those cited for employees in other branches.

4. *Introduction of supplementary benefits.*—Paralleling its far-sighted wage practices, the Petroleum Industry at early dates established various supplementary benefits for workers. The recent survey discloses regular plans of Paid Vacations for office and supervisory workers as early as 1902. Non-contributory Old Age Pension plans were evident in 1903. Thrift plans and Stock Purchase plans appeared in 1909. The practice of paying employees for time lost while in Jury Service was observed in 1912.

With the start of the World War, some companies continued certain benefits to employees absent on Military Service. Today, allowances with full or partial pay to permit attendance at Federal and State summer military encampments or naval cruises are general.

Group Sickness and Accident Insurance plans were evident in 1915. These were followed by various forms of Employees' Mutual Benefit Associations usually given substantial support by the employers. Group Life Insurance plans appeared in 1918, some of which provided Free Insurance on which the premiums are paid by the employers.

The general acceptance of group insurance plans by the employees is reflected in the gross amount of insurance in force as reported by the 18 larger companies for May 1939. The total Group Life Insurance on which premiums are paid by the companies was $82,387,500, that on which premiums are on a "contributory" basis (shared by the companies and the employees) was $266,485,500, and that on which premiums are paid by employees was $275,348,000. In the latter two groups more than 90 percent of all eligible employees subscribed for policies. The total Group Sickness and Accident Insurance on which premiums are paid by employees has monthly benefits in force of $10,600,000, with about 87 percent of all eligibles subscribing. More than 53,000 employees were members

Employees' Mutual Benefit Associations. Most of the reporting companies have plans for voluntary continuation of full or partial wages during part or all of the time lost due to disability.

In about 1918, Safety and Social Welfare programs of various types were initiated. Paid Vacations for the daily- and hourly-paid workers were reported in 1920. In 1925 definite schedules of Severance Pay for certain classes of workers appeared. Cost-free Medical Service, ample provision for Company Housing on isolated properties, et cetera, have been practices of long standing.

These various forms of supplementary benefits were not adopted by all employers simultaneously, but progressive companies today provide most of them to the employees in one form or another on a very liberal basis. Typical benefit plans of various types are described in Appendix 1 of this statement.

5. *Comparative weekly earnings.*—Perhaps the most striking features of the Petroleum Industry's wage records compared to those of most other industries are the high weekly earnings and the unusual regularity of such earnings maintained throughout the year. These are shown in Table 2a and Chart 2a which give B. of L. S. earnings figures for Petroleum Production and Petroleum Refining as well as "All Manufacturing Industries" and several larger comparable industries such as Automobiles, Machinery Group, Other Chemicals (except Petroleum Refining), Rubber, Iron & Steel Group, Bituminous Coal and Textiles. A composite picture of the year-round conditions in these several industries is shown in Chart 2g.

The annual average weekly earnings in 1938 were $33.94 in Petroleum Production and $34.92 in Petroleum Refining as compared to $22.84 in "All Manufacturing", and a wide lower spread among the other industries. In no year from 1930 to 1938 did the annual averages in any of the compared industries equal or exceed those of Production and Refining. In 1933 when these two fell off to $27.55 and $26.67, "All Manufacturing" fell off to $17.56.

The 1938 Petroleum averages of $33.94 and $34.92 were even above the 1929 average of $33.26 for Refining. (The 1929 average of Production was not available.) On the other hand, averages for "All Manufacturing" were $27.54 in 1929 and only $22.84 in 1938. None of the compared industries had re-established 1929 average weekly earnings.

The P. & C. and A. P. I Surveys, see Table 3a, also show that average weekly earnings in May 1938 were higher than in May 1929 in most branches of the Industry, indicating the effort made by the employers to restore pre-depression earnings to workers despite simultaneous substantial reductions of hours worked per week. Amongst the Office and Supervisory groups, the 1938 earnings of $47.79 were about 6 percent above those of 1929, while the average weekly working hours had been reduced about 8.5 percent to 39.5 in 1938. Amongst the Production, Pipe Line and Refining wage earner groups in total, the 1938 earnings of $35.80 were about 5 percent above those of 1929, with an average reduction in weekly working hours of about 32 percent to 36.6 in 1938. Hourly- and daily-paid employees of Wholesale Marketing received 1938 earnings of $39.37 that were 8 percent above those of 1929, with an average reduction in working hours of 21 percent to 42.7 in 1938.

The cited restorations of pre-depression earnings should be considered in conjunction with the fact that the May 1938 "cost of living index" was only 84 percent of that of May 1929, and that a restoration in 1938 of 105 percent of 1929 weekly earnings means a restoration of 125 percent of 1929 "real wages."

As to the regularity of such high weekly earnings in the Petroleum Industry, consideration of the B. of L. S. reported monthly averages for the year 1938 indicates that those in Production varied only from $33.41 to $34.48, and those in Refining from $34.24 to $35.78. No other compared industry approached this record as regards both average amount and regularity.

6. *Comparative annual earnings.*—In 1933 and 1935 the Bureau of Labor Statistics made a special study in certain industries of the actual annual earnings of employees. The figures available for the industries above compared are shown in Columns 1 and 2 in Table 2f. Petroleum Refining was $1,416 in 1935 and $1,300 in 1933, whereas "All Manufacturing" was only $1,061 in 1935 and $833 in 1933. One other compared industry was almost equal in 1935 but was $268 lower in 1933.

An attempt has been made herein to compare annual earnings for 1938 as reflected in current B. of L. S. figures. The procedure was to multiply the reported weekly averages for the year (see Table 2a) by 52. Reference to the results in Column 4 of Table 2f shows $1,816 for Petroleum Refining as compared to $1,188 for "All Manufacturing". Those for other compared industries ranged from [illegible]67 to $840.

Assuming that the average monthly earnings reported for May 1938 in the A. P. I. Survey are typical of the other eleven months of the year (and there is no reason to believe to the contrary), the average annual earnings of the employees of the reporting companies were as follows: Office and Supervisory $2,485, Production $1,884, Pipe Lines $1,866, Refining $1,845, Wholesale Marketing $2,047 and Service Stations $1,385.

7. *Distribution of annual earnings.*—The National Resources Committee (see BUSINESS WEEK—Sept. 10, 1938), recently analyzed 39,458,300 individual and family incomes to show how they were split amongst a series of income brackets. The A. P. I. Survey obtained information on reported earnings of 240,527 Petroeum Industry employees. The two sets of figures are given in Table 2g and Chart 2h. BUSINESS WEEK's data is reproduced in Chart 2i.

Comparing certain totals, it will be noted that only 8.23 percent of the Petroleum employees earned less than $1,250 per year, whereas 59.63 percent of the national total received less than that amount. The $1,250–$2,000 range included 54.71 percent of all Petroleum employees, whereas it included only 22.63 percent of the national total. The $2,000–3,000 range included 28.36 percent of Petroleum employees and only 11.24 percent of the national total.

Regardless of the value of comparing the Industry's performance to the national pattern, the Industry figures in themselves show a most healthy distribution of annual earnings. And they are not preponderously in favor of the salaried group, as is indicated in the last section by the fact that that group (which contains all persons earning up to $12,000 per year) averaged only $2,485 whereas the wage earners averaged $1,870 per year or about $156 per month.

8. *Comparative working hours.*—Hours worked per week in both Production and Refining are quite steady throughout the year at reasonable levels. The B. of L. S. working hours figures in Table 2b and Chart 2b show for the year 1938 that Production varied only between 39 and 40.5 hours and Refining between 35.3 and 37 hours. The ideal condition, to provide uniform hours at reasonable maxima throughout the year, was well met by these two branches. Certain other comparable industries were in some seasons able to provide only 17 and 27.4 hours per week respectively, with one varying from 27.4 to 38.7 hours and another from 28.3 to 37.4 hours.

Since 1929, hours worked per week in the larger companies of the Petroleum Industry have been reduced by branch averages ranging from 8.5 percent to 32.0 percent. The P. & C. and A. P. I. Survey figures in Table 3b indicate that the shortened hourly schedules prescribed for Production in August 1933 by the Petroleum Code have been more closely adhered to by the larger employers than by the smaller employers of the Industry. The May 1938 figure for the eighteen companies (which produced about 37 percent of the U. S. total crude oil) was 37.2 hours, whereas the figure was 39.4 for the Industry average (see B. of L. S. figure in Table 2b). This indicates that the smaller operators must have averaged about 44 hours.

The effort of the larger employers to adhere to the spirit of the N. I. R. A. employment provisions and the present trend toward reduced schedules is shown by the following comparison of Code prescriptions and actual performances (latter data from Table 3b):

Hours worked per week

Industry branch	Code prescription	Average hours eighteen companies
Office and Supervisory	40.0	39.5
Production	36.0	37.2
Pipe Lines	36.0	36.8
Refining	36.0	36.1
Wholesale Marketing	40.0	44.3
Service Stations	48.0	47.9

The longer hours in the Wholesale Marketing are due to the difficulty of operating bulk distributing plants on schedules of 40 hours per week.

9. *Comparative hourly wage rates.*—Hourly wage rates were fairly uniform throughout the year 1938 in all of the compared industries, as is shown by the B. of L. S. hourly rate figures in Table 2c and Chart 2c. However, high rates in some other industries (that in Refining was $0.979 per hour and that in Pro-

duction was $0.846 per hour) provided neither steady nor comparable earnings because of the wide range in hours of work prevalent in those industries.

The present average weekly earnings and hourly wage rates under the uniform 36-hour weekly schedules of the integrated companies in Production, Pipe Lines and Refining are approximately equal, whereas they were quite different under the varying conditions of 1929. There is now a substantial parity of hourly rates between the various branches for employees performing similar classes of labor, a condition made possible by the present uniformity of hours.

Even the common laborer in the Petroleum Industry has a preferred earnings status, as is shown in a recent study of the Bureau of Labor Statistics. Data as of July 1938 on the average entrance wages rates of common labor (given in Table 2h) show that those in Refining averaged $0.675 per hour in the North and West and $0.571 in the South and Southwest. Comparative figures for "All Manufacturing" are respectively $0.116 and $0.224 per hour less. Those in one large industry where much common labor is used are respectively $0.078 and $0.133 per hour less than Refining.

The Petroleum Industry in fact uses comparatively little "common labor", and has long followed the practice of paying substantially more than mere entrance rates after about six months' experience has been gained by recently-hired employees. If they are in a refinery, they will be moved to the "yard-man" classification, and if in an oil field or on a pipe line they will be moved to a more skilled classification as a routine maintenance worker. Because of these practices, the Industry has been able to attract new employees with better-than-average educational qualifications.

10. *Seasonal regulatory of employment.*—The seasonal regularity of employment during the year 1938 is reflected in the B. of L. S. employment index figures given in Table 2d and Chart 2d. In the Petroleum Industry it was quite steady, Refining varying between index numbers 94.9 and 98.7 and Production between 67.7 and 75.3. On the other hand, one other industry varied during the year from 43.1 to 96.0, another from 78.5 to 96.9, et cetera. Owning to the fair year-round uniformity of hourly rates in the several industries, the Pay-roll Indexes (see Chart 2e and Table 2e) fluctuated quite similarly with the Employment Indexes.

Attention is called to the fact that most Petroleum refiners have tankage sufficient to store several months' stocks of refined products when necessary. Despite the wide seasonal fluctuations in product demand each year, those refiners are able to schedule their daily crude oil runs to stills at a surprisingly uniform year-round rate which has similarly leveled out the year-round employment. This action is illustrated in Chart 2f, which shows the wide seasonal fluctuations in demands for refined products, the quantities each month put into storage or withdrawn, the daily crude oil runs to stills, and the employment index. Here is an example of how good planning has made for better employment conditions.

Employment in Pipe Lines also is very regular because ordinary variations in quantities of line throughput have but little effect on numbers of employees required to operate and maintain facilities. In Production the employment is more directly affected by the amount of capital available for exploration and drilling.

The Industry has made an effort to level out the seasonal variations in Wholesale Marketing employment by the development in northern states of domestic fuel oil business. Thus the bulk station men and truck drivers can pick up the load of fuel oil distribution during the periods when cold weather reduces the amounts of gasoline being consumed by motorists.

11. *Turnover and continuity of employment.*—Labor turnover is a feature given regular consideration by the Bureau of Labor Statistics. Table 2k shows comparative data for Petroleum Refining and other industries in terms of averages for the six-year period 1932–1937. It also shows the indexes of employment for each industry at the beginning and end of the period, and the percent of changes during the period.

Refining shows the lowest "quit" rate (or measure of voluntary separation) of any compared industry. Only one of the compared industries shows slightly lower "discharge" and "lay-off" rates, but it is to be observed that employment in that industry increased 52 percent to an index of 96.3 during the six-year period whereas in Refining the increase was but 23 percent *from* an index of 100.0. The tendency to discharge and lay-off is less when the employment is most rapidly increasing.

It has already been demonstrated that employment in the Industry and in the larger companies is quite regular. A very high *continuity* also characterizes employment in the larger companies. These companies report turnover, defined as

"the number of replacements in percent of total hired per annum," in some cases as low as one percent, and with an average of 8.6 per cent among 245,900 employees. These companies also reported the distribution of length of service amongst their employees as follows:

Length of service of employees

Completed years of service	Number of employees	Percent of total	Completed years of service	Number of employees	Percent of total
0-4	98,215	39.94	25-29	3,481	1.42
5-9	62,053	25.23	30-34	1,396	0.57
10-14	41,690	16.95	35-39	648	0.26
15-19	27,031	10.99	40 and over	189	0.08
20-24	11,206	4.56	Total	245,909	100.00

Though these length of service figures reflect a fine condition, certain of the reporting companies point out that they are adversely misleading because of (1) the great recent growth of the Industry and (2) the decrease in hours since 1929 which has unduly increased the numbers of employees hired in recent years.

12. *Total volume of employment and payrolls.*—Complete information on either the present or the historical volumes of employment and payrolls for the Petroleum Industry is not available. The Production branch is incompletely covered by B. of L. S. monthly reports on employment and payrolls (see Tables 2d and 2e and Charts 2d and 2e) and by recent annual reports of the Bureau of Mines on employment and labor productivity (see Table 2s). The B. of L. S. figures have but little quantitative value though they reflect recent trends in identical establishments, while the Bureau of Mines figures, which cover only the years 1935, 1936 and 1937, definitely exclude contract workers and are indefinite as to their coverage of salaried employees—particularly those not actually "in the oil fields."

The Interstate Commerce Commission since 1921 has issued reports annually on employment and payrolls in Pipe Line Transportation (see Table 2g), but these are incomplete for all pipe line activity because they cover only the interstate carriers. The Refining branch is covered by B. of L. S. monthly reports (see Tables 2d and 2e and Charts 2d and 2e) and by the bi-annual surveys of the Bureau of the Census (see Table 2r); however, the latter definitely exclude salaried employees, and the B. of L. S. figures do not include all of them.

The Wholesale and Retail Marketing branches were surveyed by the Bureau of the Census during 1933 and 1935 (see Table 2o and 2p), but the Bureau gave up a similar effort in 1937 because of difficulties encountered. Even the earlier reported payroll data excluded the earnings of all retail filling station proprietors—180,000 in 1935—most of whom were full-time workers.

The data reported by the eighteen larger companies (see Tables 3d and 3e) also have a limited value in reflecting the present and historical volumes of employment and payrolls applicable to the operations of those companies. While the figures in their reports are entirely correct as to the numbers and earnings of direct employees, they suffer from certain shortcomings also common to the various government figures, e. g.,

(a) Some of the reported employees were engaged in extraordinary construction work and were not normally subject to retention after its completion. Such extraordinary employment causes distortions in trends quite different from those due to normal operating fluctuations.

(b) Many of the reporting companies have contracted out substantial amounts of work to independent contractors whose workers are not on the reported rolls. Such employment affects adversely the apparent measure of the total employment provided by the operations of the companies.

The construction as well as the contract work may be considered as belonging either within the Petroleum Industry or to the construction industry, depending upon whether or not the work is especially characteristic of the Petroleum Industry and the extent to which it is normally performed by oil company employees.

Two studies reflect the possible extent of the conditions above described. A study of the May 1929 payrolls of the larger companies showed that 10.2 percent of all employees reported then were engaged in extraordinary construction work. An estimate made of the volume of drilling and rig-building employment in May 1934 (all definitely classifiable as within the Petroleum Industry) showed that

about 27,000 employees of contractors were at work, none of who were carried on the rolls or reported by the larger companies responsible for many of the wells drilled, and only a portion if any of whom were included in the B. of L. S. figures. This group of 27,000 contractors' employees comprised about 68 percent of all rig-building and drilling workers.

As a general premise—the volume of employment may be expected to parallel the volume of operating activity and to be distorted only by special programs of construction and development work. Tables 2i and 2j have been included to show various "operating activity indexes" since 1920 for the several branches of the Industry. Table 2i gives numerical data on the various factors, and Table 2j gives them in terms of index numbers with the year 1929 as base = 100.

Production indexes show that 3.0 percent more wells were drilled in 1938 than in 1929, 9.7 percent more wells were producing and 20.4 percent more crude oil was produced. Yet the B. of L. S. indicates a reduction of 27.9 percent in Production employment, and the larger companies report a reduction of 15.0 percent.

Refining indexes show that 18.0 percent more crude oil was refined in 1938 than in 1929 and 27.8 percent more motor fuel was produced. Yet the B. of L. S. indicates 2.8 percent less employment, and the larger companies report 13.3 percent less.

Pipe Line Transportation indexes show that 12.6 percent more miles of interstate pipe lines were operated in 1937 than in 1929 and 11.4 percent more oil was transported through them. Yet the I. C. C. reports only 3.0 percent more employment and the larger companies show 21.1 percent less.

Wholesale Marketing indexes show that 36.2 percent more motor fuel was delivered in 1938 than in 1929, with similar increases in the distribution of other important products. Yet the larger companies report 13.0 percent less employment.

The most apparent though readily explained inconsistency exists between the activity and employment indexes of the larger companies for service stations. In 1938 as compared to 1929 there were increases of 36.2 percent in quantity of motor fuel delivered and 10.7 percent in number of motor vehicles served, whereas a reduction of 51.1 percent was reported in employment at service stations operated by the larger companies. This difference, however, is due entirely to a great reduction in the number of service stations so operated, and does not necessarily indicate that fewer people are engaged in service station operation of all types.

The only reports available that with certainty cover identical establishments back to 1929 are those from the 18 larger companies. Disregarding the described effects of construction and contract work, their combined employment in 1938 relative to May 1929 was reported as follows: Office and Supervisory employees increased 16.81 percent, Production, Pipe Line and Refining wage-earners in total decreased 14.9 percent, and Wholesale Marketing wage-earners decreased 13.0 percent.

The total numbers of employees of the eighteen companies reported in these branches (which include all activities except operation of retail service stations) were 201,514 in 1938 and 217,004 in 1929, representing a combined employment index of 93.0 in 1938 as compared to 1929. Monthly payrolls in these same branches were $34,966,000 in May 1929 and $34,953,000 in May 1938, showing a 1938 payroll index almost exactly equal to that of 1929 despite the fact that 7.0 percent fewer persons were on the rolls at greatly reduced weekly working hours.

A misleading difference is to be noted between employment data issued by the Bureau of Labor Statistics and those issued by the Bureau of Mines with respect to the Production Branch. The following is quoted verbatim from a report issued on April 24, 1939, by the U. S. Bureau of Mines (M. M. S. No. 728) entitled "Recent Trends in Employment and Productivity in the Oil and Gas Fields."

"The Bureau's canvass for 1935 showed an average of 93,450 full-time and part-time wage earners at oil wells, exclusive of nearly 8,000 salaried employees at field offices. The survey for 1936 showed an average of 113,839 'workers in the oil fields' * * * Because the 1935 canvass covered 'wage earners' and the 1936 and succeeding canvasses covered 'workers,' it is quite likely that some field clerical employees were included in the data for the years after 1935. Information on this point remains to be developed, meanwhile it may be assumed that the increase in total number of wage earners (exclusive of contract workers) was about 15 percent in 1936 over 1935 and 7 percent in 1937 over 1936. Only partial information is available for 1938 but a loss of 5 percent from 1937 is indicated."

In 1935 the B. of L. S. employment index for Production was 74.9, in 1936 it was 72.9—representing a decrease of 2⅔ percent, yet the Bureau of Mines report says "the increase * * * was about 15 percent in 1936 over 1935." The B. of L. S. figure for 1937 was 76.5—representing an increase of 4.95 percent over 1936,

yet the Bureau of Mines report says "the increase * * * was about * * * 7 percent in 1937 over 1936." The 1937–1936 disparity is not substantial, but that of 1936–1935, i. e., 2⅔ percent decrease versus 15 percent increase, is misleading and not so readily reconciled.

Employment and payroll changes in the Production branches of the larger companies (indexes relative to 1929=100) compare with the B. of L. S. Industry figures as follows:

	B. of L. S.		Larger companies	
	Employment	Payrolls	Employment	Payrolls
May 1938	73.2	66.7	85.0	82.9
May 1936	72.5	58.5	81.0	67.9
May 1934	76.7	56.4	74.9	56.6
May 1929	93.9	92.4	100.0	100.0
1938/1936	+0.97%	+14.0%	+4.94%	+18.12%
1938/1934	−4.57%	+18.26%	+13.50%	+31.78%
1936/1934	−5.48%	+3.72%	+8.14%	+19.97%
1938/1929	−22.04%	−27.81%	−15.00%	−17.10%

Each of five special features—work requirements and equipment, construction employment, contract employment, rig-building and drilling employment and service station employment are discussed separately hereinafter, and the difficulty of determining the actual trend or present extent of total Industry employment is indicated.

13. *Work requirements and equipment.*—Concerning the somewhat limited effect of changes in work requirements and equipment, a brief resumé follows:

Office and Supervisory employment has followed activity indexes with fair regularity. There has been an expansion of research, engineering and technical activities; the reduction of working hours in all continuous process operations has necessitated increases in supervisory forces; increased sales effort has been required to maintain a profitable sales volume under intense competition; and additional work has been created to administer and accumulate Social Security work and records and the numerous reports and records now being required by both the local and federal governments.

Production employment has not followed activity indexes for several reasons aside from those already mentioned. Exploration (included in Production employment) probably uses more employees despite the scientific progress made through introduction and application of the torsion balance, the seismograph, the aerial camera, micro-paleontology, soil and gas analysis, and electrical conductivity. However, improved technique in methods of drilling and the application of advanced engineering practices to production operations have increased operating efficiencies and reduced relative employment.

The changes in drilling equipment from steam to Diesel or Diesel-electric rigs and the introduction of portable drilling outfits, drilling barges in the swamps, automatic weight control on the drill-stem, mud control, as well as a decrease in the size of holes drilled with consequent reductions in yardage of material to be removed and the number of strings of pipe to be cemented, etc., have reduced rig-building and drilling labor. On the other hand, wells, are being drilled deeper and deeper, a 10,000-foot hole is not longer a novelty. In 1938 a well in California reached a depth of 15,000 feet. The percentage of "dry holes" in exploration drilling has decreased, and the proportion of oil recovered has increased.

"Proration" has reduced the number and urgency of well-pulling jobs to such an extent that service companies have sprung into existence and are today contracting some of this type of work.

Pipe Line employment can be compared only with the index of "interstate pipe line" activity which, as of 1937, was about 82 percent of all pipe line activity. The slight decrease in employment between 1929 and 1938 may be attributed entirely to a reduction in volume of new pipe line construction.

Refining employment apparently has been reduced relative to the increase in crude oil runs to stills because technological improvements in plant design have made it possible to distill and crack greater quantities of oil in single units, and the adoption of automatic controls to secure better uniformity of product has permitted reductions in the sizes of crews necessary to operate the units. However, most of the apparent decrease is due to reduced construction programs in 1938.

Wholesale Marketing employment has been reduced principally because of three reasons. The economic necessity brought by the depression caused extensive surveys to be made of the economics of distribution that resulted in increases in sizes of tanks and trucks, closer attention to scheduling deliveries, etc., which reduced the numbers of bulk depot employees required. Expansion of the lessee-dealer plan of service station operation removed the need for the supplying companies to supervise many service stations previously operated by company employees. Many bulk depots were leased out to independent jobbers, in which cases the personnel employed in those depots were no longer company employees; however, this change has perhaps merely taken the personnel off of the payrolls of the suppliers and placed them on the payrolls of the jobbers, with no actual decrease in Industry employment.

Retail service station employment reported by the eighteen companies has decreased 51.1 percent since 1929 and 71.0 percent since 1934. These figures, applicable to but a small percentage of the Industry's service stations, do not necessarily indicate a decrease in total industry employment, but rather a shift in the status of the personnel operating many of the stations under the lessee-dealer plan. It is impractical to draw conclusions concerning trends in total service station employment from records at hand.

14. *Construction employment.*—Activities and employment associated with any industry or branch may be grouped in two classes, (1) the continuing work of operation and routine maintenance, and (2) the extraordinary work of new construction and rehabilitation. Unless payroll records reflect the segregation between these two classes of work, historical comparisons of employment are difficult to make. This difficulty is present when considering Petroleum Industry employment.

Reported employment and payroll figures of the Bureau of Labor Statistics, as well as those obtained in the P. & C. and A. P. I. Surveys, include all persons on the direct payrolls of a selected number of "establishments" or companies. If any reporting company undertakes a special construction program with workers hired by it for the occasion, the numbers of these workers and their earnings will be included in the monthly reports. If the work is done by outside contractors (whose class of work normally may form either a part of the Petroleum Industry or belong to another industry), the employees of that contractor and their earnings will not be reflected in the monthly reports.

In 1929 an unusually large program of construction was under way in the Petroleum Industry. Out of 252,817 employees reported by 22 companies for May, 1929, a special questionnaire in 1934 revealed that 25,702 of them were then engaged on extraordinary construction work and not normally subject to retention on the company payrolls after completion of the construction work. In the Production branch, 6,408 such employees comprise 10.8 percent of all reported, and in the Refining branch, 13,809 of them comprised 23.3 percent of all reported. Pipe Line construction similarly engaged 4,118 employees comprising 24.6 percent of all reported.

A typical experience, as reported by a large refiner, may be cited:

> "In May of 1929 we employed at our refineries approximately 1,440 men of which 524 were employed temporarily for the installation and erection of new capital equipment. The normal maintenance and process crews on that date consisted of approximately 916 employees. At the end of October 1934, the company employed in comparable refinery operations, 1,186 men of which number only 150 were temporarily employed for the installation and erection of equipment. In October, therefore, the normal maintenance and process crews consisted of 1,036 employees, a number greater by 13 percent than that of May 1929. This is true despite the fact that the installation of new equipment has in some cases resulted in refinery procedures which required a smaller number of men on duty during each shift."

Besides the numbers of oil company direct employees engaged in extraordinary construction work at that time, there also probably were a substantial number of employees of construction industry contractors similarly occupied. This indirect employment provided by the Industry was not reflected in the monthly reports furnished by the oil companies. These distortions appear in the B. of L. S. figures as well as in those of the two Industry surveys.

15. *Contract employment within the industry.*—Mention was just made of contract employment, particularly that afforded the construction industry. An equally indeterminate situation exists as to the contracting of work definitely within the Petroleum Industry. This is most prevalent in the Production

branch. The following communication in 1934 from a California producer throws light on the condition in Production.

> "In connection with figures furnished you comparing number of employees in 1929 with 1934, it is interesting to note that in this company's drilling operations we had in 1929 forty-eight "strings" of drilling tools running and all of these jobs were company-operated, while we now have twenty-seven strings of tools operating, of which ten are operated by contractors.
>
> "Our present employment figures would represent only the men engaged in the seventeen jobs done by company employees, but in effect we have provided men in the Industry with work by contracting the ten jobs referred to, so that by reason of our drilling operations, more men are working than are shown on our payroll * * *
>
> "When it is considered that a typical company-operated drilling program in California requires from 39 to 40 men per well in drilling and its supporting transportation and shop activities, the effect of this change in policy on our employment figures is obvious."

A great deal of contract rig-building and drilling has been and now is being performed in the Mid-Continent and Gulf Coast fields by companies that in 1929 were either nonexistent or had previously drilled with company crews.

The above quotation by itself shows that the comparison of undetailed data submitted for two different periods by one reporting establishment will lead to erroneous conclusions, and the subsequent statement concerning the establishment of new companies shows the fallacy of relying on the ultimate result of a succession of month-to-month "trend comparisons" in identical establishments.

The definite trend toward increased use of contractors by the operators in the industry has continued. It has aimed principally at the promotion of stability of employment amonst construction and maintenance workers. In certain areas local labor conditions have made the practice expedient. It has in most cases proved beneficial and profitable to all parties concerned. It has been found advantageous also to contract jobs where the work involved is of such a magnitude as to justify bids on "turn-key jobs," i. e., equipment delivered in an operating condition, such as derricks and rigs, and in cases where the work is urgently required and sufficient regular forces or competent local labor is not available. The relative amount of such contract work is estimated to have increased between 25 and 30 percent from 1929 to 1938.

Much of the work described below has been or is increasingly being handled by specialty contractors in certain areas:

Producing: Drilling of wells, pulling of wells, construction of field plants and pipe lines, other construction jobs, paint jobs, special repair work, teaming and trucking, boating, etc.

Pipe lines: Construction, special repair and renewal of pipe lines, erection of buildings and steel tankage, etc.

Refining: Construction and special repair of operating equipment and facilities, teaming, trucking, etc.

Marketing: Installation of station dispensing equipment, maintenance work, mechanical repair work, painting of service stations as well as bulk plant properties, etc.

16. *Rig-building and drilling employment.*—Inasmuch as the overall trend of employment in rig-building and drilling was impossible of determination from any collected employment reports available, in 1934 a special questionnaire was circulated to the six regional P. & C. production committees with the request that they should analyze all drilling operations for May of each of the 3 years and carefully estimate the full-time employment in rig-and-derrick erection and drilling, subdividing the industry totals as to employment by (1) the reporting companies (only 19 of which produce crude oil), (2) all other producers and (3) all contractors. Although these figures were determined by estimation, they were conscientiously prepared and reflect the best comprehensive information then available.

The tabulation and analytical percentage figures, herein reproduced as Table 2m, showed, despite the fact that the wells completed in May 1934 were 29.3 percent less than in May, 1929, they were twice those of May 1933, and that the employees engaged in May 1934 were almost equal to those engaged in May 1929. The increase in employees from May 1933 to May 1934 was 131.0 percent.

The trends since May 1929 to perform these operations by contract were then evident. The derrick-and-rig building contractors performed 86.7 percent of the work in 1934, as compared to 80.4 percent in 1929. The drilling contractors performed 69.3 percent of the work in 1934 as compared to 65.0 percent in 1933 and

48.3 percent in 1929. The effect of these trends was adversely prejudicial to the comparative employment figures furnished by the producing companies. Whereas in May 1929, they had reported as employees 49.9 percent of those engaged in rig and derrick erection and drilling operations on their properties, in May 1933 they reported only 34.0 percent and in May 1934 only 31.8 percent.

Recently the A. P. I. sent out a request to its regional production committees to bring the older estimate up to date. Similar estimates for May 1936 and May 1938 were attempted, which have been consolidated with those of the P. & C. estimate in Table 2n. Some difficulty was experienced in getting full data from all regions, but it is believed that the figures added for 1936 and 1938 are sufficiently correct to show the trends.

In May 1936 and May 1938 the employees of producers comprised 34.4 and 30.6 percent respectively of the total employment, indicating no substantial recent change in the policy of using contractors for this work. However, the numbers of completed wells increased from 1,511 in May 1934 to 2,506 and 2,463 in 1936 and 1938 respectively, and the total engaged employees (estimated) increased from 39,449 to 71,161 and 68,070 respectively. The estimated employees of contractors increased from 26,948 in May 1934 to 46,695 and 47,261 in 1936 and 1938 respectively. These last compare with 19,794 estimated employees of contractors in May 1929, and show an increase in 1938 over 1929 of about 27,500 employees probably not included in Bureau employment figures.

A further interesting analysis of reported data and estimated figures with respect to the 18 larger companies is given in Table 2n–1. The companies were asked to report for May in 1934, 1936 and 1938 the numbers of wells completed for their accounts, the numbers at which derricks and rigs were erected by their own employees, the numbers drilled by their own employees, and the total numbers of their own employees engaged in all derrick and rig-building, drilling and directly allied activities.

In the three years 1934, 1936 and 1938 respectively, their own engaged employees were reported as 7,782, 8,194 and 8,499 respectively. The employees of contractors working on their wells were estimated as 6,058, 12,206 and 9,428 respectively, none of whom were in the reported company payrolls.

Taking duly prorated figures for 1929 and 1933 for the 18 companies (19 companies were included in the earlier survey) and combining them with the actually reported Production employees of those companies, the following interesting comparison of reported and probable employment trends is obtained.

Survey of 18 major petroleum companies' production employees

Month of May	Employees on own payrolls		Employees of contractors (number)	Combined employment	
	Number	Index		Number	Index
1938	38,328	85.0	9,424	47,752	100.2
1936	36,524	81.0	12,606	49,130	103.2
1934	33,777	74.9	6,056	39,833	83.9
1933	23,268	51.6	1,240	24,508	53.5
1929	45,106	100.0	2,500	47,606	100.0

Regardless of the accuracy of the estimates herein presented, they disclose the false adverse impression of Production employment trends given in present published data, and they indicate the need for development by the Bureaus of a better plan to sample and follow the true trend of such employment.

Another important consideration is that rig-builders and drillers earn the highest hourly wages of any oil industry wage-earners. Rig-builder's and driller's helpers earn about the same wages as second-class mechanics. The exclusion of large numbers of these highly-paid contract wage-earners from the Production totals has materially and adversely affected average hourly wage rates and average weekly earnings reported since 1932 by the Bureaus and by the larger companies.

17. *Service station employment.*—Any conclusions reached as to the trend of employment in retail service stations must be based on estimate, inasmuch as no comprehensive figures are available for the entire United States. Complete figures are available only for certain areas and periods, and the results in total must be based on extensions of assumed averages.

In 1933 and 1935 the U. S. Bureau of the Census collected data on numbers of service stations and the numbers of proprietors and employees. According to the

Census figures, see Table 20, in 1933 and 1935 there were respectively 170,404 and 197,568 retail filling stations. There also were reported respectively 324,976 and 383,623 persons at such stations, including active proprietors and full- and part-time employees, or about 1.90 persons per station in each period. In addition to these stations which make the sale of gasoline their principal business, there are at least one-third as many additional places of business where gasoline is sold as a side line.

Two Industry estimates made in 1934 set the total number of gasoline retail sales outlets as 313,000, of which approximately 225,000 or 72.0 percent made gasoline their principal business. Taking an average of the 1933 and 1935 Census figures as applicable to 1934 would give 184,000, a figure considerably smaller than the Industry estimate. In taking the 1937 census, the Bureau abandoned a similar census of service stations due to difficulties encountered because of changes in operation status then in process. The lack of comprehensive information today is obvious.

In May 1934 the larger companies included in the P. & C. Survey operated 18,736 of these stations with employees on a salary, salary-and-commission or commission basis, giving work for 47,710 persons who earned $4,381,000 monthly. Averages for these stations showed employment of 2.55 persons, a total payroll of $233.84 per month, and individual monthly earnings of $91.83. (This latter earnings figure was checked as a conservative average through an entirely independent survey covering 11,589 employees in 30 Central and Southern States where average earnings in December 1933 were reported as $90.76 per employee.) In 1936 and 1938 the individual earnings had increased to $113.09 and $115.40 per month.

In 1934 the companies above referred to distributed about 88 percent of the gasoline sold in the United States. In terms of the United States gallonage total of 100 percent these companies then distributed 61.3 percent through company-employee operated bulk plants and 27.3 percent through jobbers or other channels of distribution. It is to be noted, however, that the 18,736 stations then directly operated by these companies comprised only about 8.2 percent of the Industry's estimated total stations, and not more than 10 percent of the more conservative Census figures. In fact they comprised but 5.97 percent of all estimated retail outlets selling gasoline.

Through a period of transition in company operating policies, since 1934 about 16,000 of the 18,736 stations have been leased out to independent dealers, most of whom were employees in 1934. The dealers now are independent merchants and able to operate the stations as they choose, including free choice of employees, operating schedules and sources of supply.

Although a relatively small number of the total retail outlets have been affected by this change in operation, it is of interest to consider what changes in compensation have resulted to the affected personnel since the change.

From a knowledge of the previous costs of operations, excluding labor, at these stations it is believed that the present gross margins between wholesale and retail selling prices, including profit on miscellaneous services, are sufficient to give (in industry totals and general averages) even more total money available for earned incomes to the personnel than was actually paid in salaries and/or commissions previously. This may not hold with respect to each individual station, however, because factors now outside of supplying company control have changed the distribution of this total money amongst the several stations and their personnel. For example:

(*a*) Under the old company-operation plans, each employee usually was guaranteed certain minima or generally similar wages with but little regard to the sales gallonage or profitability of the individual station. Now the amounts available for compensation of the dealers and their employees are largely dependent on their selling effectiveness. Thus a station in a good location and with effective sales effort probably will receive more per man than another station not so well situated or so well operated. This accounts for a re-distribution amongst the various stations of the total amount available for compensation.

(*b*) The dealer, who usually works himself, now is the employer. He has at his own discretion the complete arrangements in his station, including the employment of more or fewer assistants, and the distribution of received monies amongst them and himself. Though the same amount of money may be now available for compensation of personnel at a station once under company operation, the dealer may choose to to retain the same or more or fewer assistants at the previous or longer

hours per week. He may choose to keep for himself more or less of the total money than previously, as well as to change the apportionment of the balance among his assistants.

The results of the last referred-to actions may have caused dissatisfaction at the poorer stations or amongst employees of certain dealers. If such is the condition, it has resulted from the attempt of the supplying distributors to establish a more equitable basis of retail competition, and not from an attempt to avoid any part of their social obligations. The resultant conditions in the one-time company-operated stations are no different from that which for many years has existed in the other 94 percent of the retail outlets.

That the general average service station converted from company-operation is better off than before, so far as payments for labor are available, is indicated by the following composite statement made up from the replies of several of the larger companies (see Table 2t) to the A. P. I. Survey:

Conditions in retail service stations

		Per station per month
1934—Company operation: Labor Bill [1]		$238.50
1938—Dealer operation:		
Gross Normal Margins [2]	$299.50	
Revenues from Miscellaneous Services [3]	71.50	
Total receipts		371.50
Rents Paid [4]	67.50	
Miscellaneous expenses [1]	43.50	
Total other expenses		111.00
Available for labor		$260.00

[1] 1934 actual figures.
[2] Estimate of 1938 actual margins applied to 1938 actual gallonage.
[3] Estimate of 1938 revenue based on 1934 actual or 1938 estimated performance.
[4] 1938 actual figures.

The figures reflect an improvement of more than 8 percent in money available for labor. One company made the following additional statement: "General comments indicate that more revenue is available for labor today than in 1934 due to the following: (a) The dealer is doing a better job for himself than was formerly done under company operation, (b) additional revenue is obtained by increased sale of miscellaneous services and items, and (c) reductions have been made in miscellaneous expense items."

A typical ruling concerning the status of dealers under Federal and State Social Security legislation is given in Appendix 2.

18. *Safe practices.*—The Petroleum Industry has done an oustanding job in the field of accident prevention, greatly reducing the hazards peculiar to the industry through engineering and educational methods.

The accomplishments in this respect have been shown to advantage through the medium of various statistical reports published from time to time by the Bureau of Labor Statistics and the National Safety Council. The record of the Refining branch, showing the relation between total frequency rate (number of injuries per million man hours of exposure) and employment index, as set forth in an article by Mr. Kossoris of the Bureau of Labor Statistics in the March 1938 issue of the "Monthly Labor Review," clearly shows that the record established by the Refining branch is equal to or better than the records established by twenty-eight other major industries discussed in the same article.

The following excerpt from this article is sufficient to make the point:

> "The (Petroleum Refining) frequency rate, which stood at 31.36 in 1930, decreased steadily to a low point of 10.46 in 1935—a decrease in the six-year period of nearly 67 percent, or 21 fewer disabling injuries for every million man-hours worked. There is a good reason to attribute this highly satisfactory experience to careful, continuous and comprehensive safety work on the part of Management in this industry."

That comment clearly indicates the enviable position the Industry has consistently maintained in accident prevention.

Safety programs have not been limited merely to the business, but also have been aimed to stimulate safe practices in the homes as well as improvement of the

health of employees and their families. This is done through the distribution of literature, radio broadcasts, first aid training courses, etc.

Safety on the highways is promoted by the companies through establishment of safe-driving schools, school patrols and awards for meritorious driving records. This effort has materially assisted in decreasing the number of motor vehicle accidents as well as the death toll on the streets and public highways.

19. *Social services.*—The industry has done much to improve social conditions as well as working conditions for its employees. Millions of dollars have been expended for housing employees in villages or "camps" located in the oil fields, along the pipe lines and at refineries not adjacent to large centers of population. While these are usually called "camps" in field parlance, most of them will stand creditable comparison with our better-class smaller American communities. Good houses and other facilities are provided to the employees at nominal rental rates. Many of the larger camps are equipped with schools and recreation centers maintained by the companies or substantially supported by them.

Medical departments, emergency hospitals, registered nurses, laboratory technicians, etc., are provided by many companies in their centers of concentrated employment. Most new employees are given physical examinations, and reexamination is made of all employees desiring to take such health precaution. These medical groups also render first aid to injured employees and treat minor ailments such as colds, sore throat, etc., without cost. In some communities the companies provide periodic visits of nurses and social service workers to assist employees' families.

Vocational placement was given more or less scientific consideration by the Industry as far back as 1918. Today many companies have employment offices and specially trained personnel councilors to advise and aid employees in fitting themselves for their jobs. Numerous contacts with outside agencies and businesses have been established to aid the placement of surplus employees during periods of curtailment of work.

20. *Indirect payroll expenditures by employers.*—An important feature to be borne in mind when considering the labor costs of employers in the Industry is the substantial cost of the many benefits which the worker receives in addition to his regular pay envelopes. This refers to the many items mentioned in the historical section (part 3) of this statement, such as old age pension plans; joint contribution thrift plans; "free" life insurance; contributions to mutual benefit associations; and leave of absence with pay during vacations, jury service, military service, illness, personal business, etc. The most recent of these is compulsory Social Security, involving joint contributions for Federal Old Age Retirement Insurance and employers' contributions for Unemployment Compensation.

Reports of the larger companies covering a direct payroll of $557,000,000 per annum indicate an average added cost of 8.0 percent for items other than Social Security. This represents an added annual sum of about $41,000,000. In addition, the payments required under the Federal Social Security Act now total 4 percent of the payroll, and—under the present law—these will increase one-half percent every three years to a total of 7 percent ten years hence. Thus it may be seen that the companies now are carrying an indirect payroll cost of 12 percent, which will increase 3 percent during the next 10 years due to legislation now in force.

With regard to increases in direct payroll costs, it may be mentioned that the reported wage rates and earnings refer to May 1938, or the year 1937. Despite the unusually high hourly wage rates and reasonably low scheduled hours per week, the indefinite omnibus features of the more recently enacted Fair Labor Standards Act have increased the direct payroll costs in the cases of Wholesale Marketing and Administrative employees.

21. *Employers bear increased labor costs.*—Weekly earnings are the measure of the employee's economic fortune, but *the hourly wage rates measure the relative cost to the employer of his man-hour units of labor.* Except as the employer is able to introduce operating economies, any substantial increase in hourly rates means an increase in his production cost.

The increased unit labor costs assumed by the larger companies to make possible the restoration of 1929 weekly earnings in 1938 are indicated by the increases of hourly wage rates reported in the P. & C. and A. P. I. Surveys shown in Table 3c. From 1929 to 1938, the hourly rates for Office and Supervisory employees (determined by conversion of monthly salaries) increased 15.5 percent, those for the Production, Pipe Line and Refining wage-earner groups *increased 53.8 percent*, and those for the hourly-paid employees in Wholesale Marketing increased 37.4 percent.

These substantial increases in unit labor costs were borne by the companies and *not passed on to the consuming public.* This is evidenced by the fact that the average per-gallon service station price of gasoline (excluding sales taxes) in fifty cities was 17.92¢ in 1929 and 14.07¢ in 1938, i. e., the 1938 price was 21.5 percent less than that of 1929.

22. *Harmony in labor relations.*—The employers in the Petroleum Industry have always taken pride in the friendly and harmonious relations which have existed with their employees. The Industry's wage scales have been usually the highest for like jobs in the areas, and its many supplementary benefits have been outstandingly favorable. In addition, the enunciation and application of general employment policies have usually been fair and equitable. The result has been reflected in the low "quit" rate evident in the B. of L. S. figures on labor turnover, and the relative freedom of the Industry from strikes.

The five-day strike in St. Louis service stations in 1933 was the first of any consequence recorded in the Industry for 13 years, and the recent B. of L. S. figures on strikes show that during the years since 1933 those in the Petroleum Industry have been extremely low. Total figures for numbers of employees, numbers of strikes, numbers of striking employees, and man-days lost, as well as unit comparative figures, are given in Table 21.

The annual averages for 1933–1937 inclusive show that for Petroleum Refining there were only .057 strikes per 1,000 employees, with but 1.90 percent striking and less than 0.6 man-days per employee lost. This is outstanding when compared to corresponding figures for any one of several comparable industries shown in the table. While definite data are not at hand, it may be said conclusively that the strikes in other branches of the Industry have been even less in frequency and consequence than those in Refining; in fact there have been practically none except a few scattered ones in Marketing.

These achievements of the Industry in harmonious relations have come from the simple expedient of recognizing through the years—without pressure—the right of labor to a fair share of the proceeds of business, by minimizing for workers the effects of our economic cycles, and by predicating employment policies on the rule that no organization or industry can rise above the condition of those who comprise it.

This straightforward and cooperative attitude in dealing with its labor questions is exemplified in the statement presented for the Petroleum Industry by the Planning and Coordination Committee (Code Authority) to the National Industrial Recovery Board in January 1935 in response to a request for answers to 20 pertinent questions aimed to guide further development of N. I. R. A. codes. This statement is reproduced as Appendix 3. The views expressed are interesting not only as to the attitude reflected by the Petroleum Industry but also because they indicate the effect on an Industry with high labor standards of legislation aimed to regiment those with prevailing lower standards.

The Industry's employment policies have been appreciated by a loyal and intelligent employee body, well aware of their perferment in the common effort to advance the standard of living. The combined effort and ingenuity of the Industry's employees of all ranks have given the general public essential services, unselfishly conceived and faithfully rendered.

H. H. Anderson.

Appendix 1. Petroleum Industry Benefit Plans

PETROLEUM INDUSTRY BENEFIT PLANS

Vacations.—Vacations with pay were instituted for salaried workers by some companies in the Petroleum Industry as far back as 1902. In 1920 paid vacations to wage earners were introduced. Since then vacation policies have been liberalized until today the customary practice is to give salaried employees two weeks' vacation with pay after one year's employment, and to give wage earners one week's vacation with pay after one year's employment and two weeks' after two years' employment. Certain companies add another week after 15 to 25 years of service.

Old age pensions.—Old age pensions were initiated in the Industry in 1903. Today most major oil companies have some type of joint-contributory or non-contributory pension or retirement plan which provides an annuity, in addition to that which the employees are entitled to receive under the Federal Social Security Act, for service after the plans were introduced.

Employee's thrift plans.—In 1909 the first "thrift plan" was adopted as a means of saving money for the employees so that when old age arrived or necessity arose funds would be available to care for such contingencies.

These plans vary considerably throughout the Industry, ranging from purely thrift or accumulated savings to profit-sharing, bonus and stock purchasing plans. Examples of two Thrift Plans in force today are described below:

Plan I: This plan provides for employee contributions ranging from 3 to 13 percent of earnings, the company matching the first 3 percent dollar for dollar and contributing fifty cents on the dollar for employee contributions in excess of 3 percent. The funds are paid over to Trustees and credited to the accounts of the individual participants. Of the total contributions, a stipulated amount must be allotted for the purchase of group annuities. The balance credited to individual employees may accumulate as a savings account, or may be used for the purchase of company stock, dues in approved medical and hospital associations, or for the purchase of life insurance. This plan also contains a provision whereby the company may make additional contributions for distribution among participants. To date three such additional contributions have been made, amounting in all to $8,000,000.

Plan II: This plan provides for employee contributions of ten percent of monthly salaries, the company contributing equal amounts which are deposited to the employees' account. All deposited amounts earn compound interest which is also credited to employees' accounts annually. Inasmuch as the principal purpose of this plan is to assure financial security at the time of retirement, employees cannot withdraw any of the funds (except under extraordinary circumstances) unless they retire or their services are otherwise terminated.

One Profit-Sharing Bonus Plan provides for a distribution of profits to be made if earnings equal or exceed a fixed minimum. Varying percentages of such earnings are paid to employees on the basis of their annual salary or wages.

One Stock Purchase Plan provides that all employees are permitted to purchase unissued stock on five yearly installments, contributing up to ten percent of their salary which the company matches on a fifty percent basis.

Jury duty.—Starting in some companies since 1912, the Industry has permitted employees to receive the equivalent of full pay during periods when their obligations as citizens required them to be serving as jurors. Many companies continue normal full pay, besides permitting the employees to retain intact the fees paid them for jury service. This is particularly the case if the employee can do a reasonable amount of company work when not actually on the jury work.

Military service.—Military obligations of its employees has been recognized by the Industry since 1914, as some companies continued certain forms of employee benefits while their personnel were serving in the World War.

Today many of the companies grant employees leave of absence with pay upon receipt of proper instructions from Federal or State military or naval authorities ordering them to training camp or temporary active duty.

In some cases compensation during such leaves is computed on the basis of current earnings less the amount received from the Government. In others the full normal company earnings are continued.

Severance allowance.—In 1925 there appeared various forms of employment severance allowances. A minimum of two weeks' notice of termination of employment or two weeks' pay in lieu of notice was customary. Now more liberal severance allowances are quite common in the Industry. In cases where employees are permanently released because of curtailment or disappearnace of their jobs, and where suitable employment cannot be found elsewhere, other allowances are made. Exceptions usually are made in cases of resignation or dismissal for cause. These allowances vary according to length of service and age of the employee. Generally they are based on one or two weeks' pay for each year of service, with maxima ranging from three months to one year's earnings.

Group life, accident and health insurance.—Insurance of employees under group life, accident and health insurance plans was inaugurated by the Industry in 1915. Now many companies make group life and/or group accident and health insurance available to employees at extremely nominal monthly premiums. This type of insurance is usually placed with large old-line standard insurance carriers, and the employees are usually obliged to pay but a fraction of what such protection would otherwise cost, due to the low rate based on group experience in a relatively safe industry. The employers contribute generously to many of these insurance plans.

The style or type of plan and the miscellaneous benefits vary, depending upon the individual insurer. The essential characteristics of one standard plan are:

"The weekly indemnity is sixty-six and two-thirds percent (66⅔%) of the employee's average weekly wage, but shall not be more than Forty Dollars ($40.00) a week. The weekly cost to employees is one percent (1%) of actual earnings."

Many companies provide cost-free accident and sickness disability benefits as well.

Death benefits.—Death benefits to employees were instituted in the Industry during 1918. While there is some variation in the detail of arrangements, some of the companies provide all employee death benefits without payment or contribution on the part of the employees, said benefits being based primarily on length of service.

The following table illustrates a typical schedule of the amounts paid at death to beneficiaries under such a free plan:

1 year and under 2 years	$1,000.00
2 years and under 3 years	1,200.00
3 years and under 4 years	1,400.00
4 years and under 5 years	1,600.00
5 years and under 6 years	1,800.00
6 years and over	2,000.00

A number of the companies do not provide cost-free employee death benefits, but many of these provide stipulated amounts of free life insurance to employees who may subscribe to the various group life, or accident and health insurance plans, for which latter the employees are charged nominal group premium rates.

Appendix 2. Status of Service Station Lessee Dealers

STATUS OF SERVICE STATION LESSEE DEALERS UNDER FEDERAL AND STATE SOCIAL SECURITY LEGISLATION

The Bureau of Internal Revenue, in June, 1937, directed letters to several supplying oil companies, inquiring into the status under the Social Security Act of individuals who lease service station properties from such companies. After consideration of contracts, statements of facts and briefs submitted by one company, the Bureau issued a ruling (SST–266), holding that under the prevailing conditions no control exists and no employer-employee relationship exists. The conditions in this specific instance were:

1. The leased station becomes, in fact, the lessee's own place of business.
2. The contract specifically provides that the lessee is entirely free to conduct his business without direction or control on the part of the lessor.
3. The lessee is not required to keep any records or books, and the lessor has no right to examine them, if kept.
4. The price at which gasoline is sold by the lessee is not determined by the lessor, and the lessee may vary the selling price as he desires.
5. The lessee is not required to purchase products of any kind from the lessor, and the lessee may, if he so desires, close the station without violating the terms of the lease.
6. The lessee is not prohibited from selling competitive products.
7. All business expenses are borne by the lessee and all profits inure to his benefit.
8. Advertising done by the lessee is not subject to approval by the lessor.
9. The lessor possesses no right of control over lessee's employees, and lessee is prohibited from employing any such individuals in the name of or on behalf of the lessor.

A copy of the ruling follows this section.

Subsequently, many companies presented the question to various states for a determination under the State unemployment compensation laws. The following is a partial list of states which have concurred with the findings of the Bureau of Internal Revenue, referring to substantially the same factual and contractual situations:

Alabama	Ohio
California	Tennessee
Florida	Texas
Indiana	Utah
Kentucky	Washington
Massachusetts	Wisconsin
Montana	

Under different factual and contractual situations, the Federal and State authorities have issued contra rulings. Only two states, Georgia and Louisiana, have indicated that they do not fully concur with the Federal ruling above referred to (SST-266).

LESSEE OF GASOLINE SERVICE STATION INTERNAL REVENUE BULLETIN OF MARCH 7, 1938 1938-10-9229, S. S. T. 266

> A, the lessee of a gasoline service station owned by the M Company, a producer of oil and gasoline, who purchases his supplies, fixes his sale prices, hires and discharges his own help, and pays all the expenses of operation is not an employee of that company within the meaning of Titles VIII and IX of the Social Security Act.

Advice is requested whether A, the lessee of a gasoline service station owned by the M Company, a producer of oil and gasoline, is an employee of that company within the meaning of Titles VIII and IX of the Social Security Act.

A leases a service station from the M Company, which station he operates as his own business. The lease entered into between A and the company is for successive periods of 6 months subject to termination by either party upon notice in writing to the other party at least 10 days prior to the expiration of any 6-month period. The rent for the station is a definitely stated amount payable each month in advance. A is not required by the company to maintain any records or to keep any books, and if he maintains such records or books, the company has no right to examine them.

In addition to the lease agreement, A has entered into a reseller's contract with the company under which the latter agrees to make deliveries of its gasoline to A in such amounts and at such times as A may direct. A agrees to pay for the gasoline in cash at the time of delivery. The price which the company charges A for gasoline is the same as that charged the dealers who do not enter into leases with the company. The price at which gasoline is sold by A is not determined by the company and he may vary the selling price if he desires. A is not required under the reseller's contract to purchase any products from the company and he may, if he so desires, close the station without violating the terms of the lease. The contract contains specific provisions to the effect that the lessee is entirely free to carry on the business of the service station without any direction or control on the part of the company. A is not required to attend any of the company's training schools or sales meetings. He is prohibited from employing any individuals in the name of or on behalf of the company and the company possesses no right of control over the persons whom A engages to assist him in his business. A is not prohibited from selling products supplied by competitors of the M Company and does in fact sell merchandise which is not supplied by the company, including oils, candy, cold drinks, and cigarettes. All profits derived from the operation of the business belong to A and are not reported or accounted for to the company in any way. The company does not pay any of the expenses of operation of the station, all such expenses, including taxes and licenses, being borne by the lessee. A is not required to list the station in the telephone or other directory under the name of the company. The company furnishes advertising literature to A but all advertising by A is on his own account and is not subject to the approval of the company. Neither A nor his employees are required to wear any particular uniform, although a special type of uniform is available for sale to any person who handles the company's products. A may honor credit cards issued by the company but he is not required to do so. Any bonuses or prizes which may be paid to A by the company to stimulate sales are made available to other lessees under similar contract leases as well as to other dealers. A is not entitled to participate in the company's retirement income plan.

Under Titles VIII and IX of the Social Security Act, an individual is an employee if he performs services in an "employment" as defined in sections 811 (b) and 907 (c), respectively. However, the relationship between the person for whom services are performed and the individual who performs the services must, as to those services, be the legal relationship of employer and employee. Generally, such relationship exists if the person for whom services are performed has the right to direct and control the individual who performs the services not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished; that is, an employee is subject to the will and control of the employer not only as to what shall be done but how it shall be done. (Article 3, Regulations 91; article 205, Regulations 90.)

Under the facts stated, it is apparent that the M Company does not exercise, or have the right to exercise, over the services of A, the control which is prescribed by articles 3 and 205, supra, as being necessary to establish the relationship of employer and employee. Accordingly, A is not an employee of the M Company for the purpose of the taxes imposed under Titles VIII and IX of the Act. A is, however, the employer of those individuals engaged by him in the operation of the service station.

Appendix 3. The Industry's Views on Proposed Revisions of N. R. A. Labor Codes as Expressed in 1935

EMPLOYMENT PROVISIONS IN CODES WITH PARTICULAR REFERENCE TO THE PETROLEUM CODE

Statement of H. H. Anderson, of St. Louis, Missouri appearing before the National Industrial Recovery Board January 30–31, 1935, for and in behalf of the Planning and Coordination Committee or Petroleum Code Authority

(Mr. Anderson served as Chairman of the Labor Sub-Committee of the Planning and Coordination Committee from May 10, 1934 to January 8, 1935.)

Mr. Chairman and Members of the National Industrial Recovery Board: My appearance here for the Petroleum Industry may seem to be irregular inasmuch as Petroleum is one of the five major industries operating somewhat detached from the NRA. The Petroleum Industry directly engages more than one million workers, perhaps more than any other single integrated industry. It is under the governmental administration of Mr. Secretary Harold L. Ickes and the Petroleum Administrative Board, and is subject to labor policies interpreted by his Petroleum Labor Policy Board, comprising three impartial appointees of the Administrator. However, this hearing has a purpose fundamental in character, and its findings probably will determine policies that may serve not only as general guides for the use of the detached code administrations but also as the basis for a Congressional program of code legislation to affect all industries including ours. Hence the Oil Code Authority thanks you for your indulgence and this important opportunity for me to present statistics and the views of many of our employers pertinent to employment provisions in codes.

Let me say at the outset that I did not come here to extol our virtues or to make comparisons with other industries in discussing our Code or our performance under it. Perhaps during the last two hectic years we have had the better opportunities and perhaps we have made the poorer use of them. The opportunities offered by an unusually high sustained demand for our products and by a relative freedom from labor disorders have been vitiated not only by the destructive tactics of a few producers and refiners of "hot" crude oil and strategically located secret and open retail price-cutters, but also by the legally ham-strung or half-hearted attempts at code enforcement on the part of the government agencies concerned.

The Oil Workers Union of the A. F. of L. petitioned Administrator Ickes last August for certain modifications of the labor provisions of our Code, including the establishment of a 30-hour week and simultaneous increases in minimum wage requirements which, in effect, would return to the workers their 1929 weekly earnings, although the working hours would thereby be reduced 42.5 percent from a 1929 average of 52 hours per week. Certain other benefits were petitioned including the establishment of 60 cents per hour as a minimum rate for common labor throughout the United States, coupled with the unique provision that this rate should be applicable only to "labor not peculiar to the Petroleum Industry." This petition was accompanied by a statement containing a number of allegations charging this Industry's employers generally with bad faith in the treatment of employees and presenting a broad picture that employers within the Industry, considered to be false and unjustly derogatory.

In response to this petition, Administrator Ickes ordered a public hearing to start December 3rd before his Labor Policy Board to determine whether or not any of the Code's present labor provisions are unjust, inequitable or inconsistent with the purpose of the Recovery Act. During the first week, organized labor presented testimony comprising principally a recitation of miscellaneous local grievances and data, much of which was irrelevant and did not serve even to indicate local non-compliance. During the second week, the employers presented their rebuttal testimony, after contesting the power or authority of the Administrator to alter or amend the provisions of the Code except on the initiation of a

trade association truly representative of the Industry. To bring light to this situation, the Labor Sub-Committee of the Code Authority collected much data concerning the performance of the Industry under the Code, which should be of extreme interest to your Board in the consideration of the problems before you.

The data effectively demonstrate for an industry having favorable advantages as regards sustained demand for its product and excellent pre-depression labor conditions, how the larger units have effectively complied with excessive code labor obligations and reabsorbed their full quota of pre-depression employment, and yet are being pressed by organized labor to hasten its millennium despite the fact that these units were operating at a loss before the Code was promulgated and have been unable to pass to the consuming public the substantial increases in payroll burdens and other costs which code compliance has loaded upon them.

I will first recite the present requirements of the Petroleum Code, after which I will present employment, payroll and earnings data in a form that will serve to answer many of the questions which have been asked on Page 2 of your notice of hearing.

With minor exceptions, the Petroleum Code prescribes weekly working hour limitations as follows:

36 for non-clerical employees in oil field, pipe line and refining operations,
40 for non-clerical employees in marketing operations other than service stations,
48 for all employees in retail service stations, and
40 for clerical employees in all operations.

Exceptions listed include executives, supervisors and immediate staff, pumpers on "stripper wells" (i. e., marginal producing operations), a few employees on certain isolated producing properties, and outside salesmen (including tank wagon salesmen owning their own trucks and operating on a commission basis without minimum guarantees).

It may be mentioned that only two industries employing more than 50,000 employees each have working hours of 35 per week and only two industries, employing in total only 5,500 employees, have working hours less than 35 per week.

In oil field, pipe line and refining operations on a 36-hour maximum week, the Petroleum Code prescribes minimum hourly rates of 52 cents in North and Pacific Coast, 50 cents in Rocky Mountains, 48 cents in Southwest and 45 cents in South. In marketing wholesale operations and for all clerical employees on a 40-hour week, the Code prescribes minimum hourly rates of 47 cents in North and Pacific Coast, 45 cents in Rocky Mountains, 42 cents in West North Central States and 40 cents in Southwest and South. In both groups, minimum full-time weekly earnings are about \$18.75 in North and Pacific Coast, \$18.00 in Rocky Mountains, \$18.80 and \$16.80 in West North Central states, \$17.28 and \$16.80 in Southwest and \$16.00 in South.

Minimum full-time weekly earnings for service station employees on a 48-hour week are the same as those of the President's Reemployment Agreement for retail employees, i. e., \$15.00, \$14.50, and \$14.00 per week for cities or trade areas above, between and below populations of 500,000 and 250,000, and \$12.00 for towns of less than 2,500 population. No exemptions are allowed in these latter small towns, as have been allowed in blanket for all other codes.

As regards the basis for equitable adjustment of wages above the common labor minimum, it may be mentioned that the Petroleum Code is perhaps the only Code out of the total of 530 which has a definitely prescribed "pre-depression" yard-stick, the adjustment being based on percentages of historical earnings in the extremely abnormal year of 1929, and saddled upon the Industry by its Administrator through an order of doubtful validity.

The Petroleum Code labor provisions, in addition to prescribing maximum hours and minimum wages, include a provision requiring contract work within the Industry to be done at Petroleum Code rates and hours, one prohibiting employment of any person under the age of sixteen years, one prohibiting evasion of the Code by changing employees to a contractor status, and our old friend Section 7 (a).

The employment data above referred to are based on consolidated authentic reports of a group of major integrated oil companies employing in May 1934 approximately 302,700 persons with a total payroll outlay of approximately \$41,000,000 per month. These companies produce approximately 50 percent of the nation's crude oil, and purchase from innumerable smaller producers in the fields an additional 35 percent; they operate pipe lines and refineries to transport and refine the

combined 85 percent. They supply about 88 percent of the gasoline sold in domestic trade, about 26 percent being delivered in tank car and cargo lots ex-refinery to jobbers, commission resellers and large commercial consumers, and about 62 percent being delivered in tank wagons from their own employee-operated bulk plants.

There are approximately 170,000 retail service stations in the United States where petroleum products are the principal items of sale. Of this number, only 20,000 are operated by employees of the subject group of major companies: another 20,000 being operated in smaller chains and as "multiunit independents," and the other 130,000 being operated by individual dealers. There are also 145,000 to 165,000 retail outlets (not accurately counted since 1929) where the sale of petroleum products is a side-line in conjunction with other principal lines of business, making a total of 315,000 to 335,000 retail outlets of all types.

It is estimated as of May 1934, that the subject group of major companies employed approximately 47.5 percent of an estimated total of 153,000 persons engaged in rig-building, drilling and producing field operations, 88.6 percent of an estimated total of 22,000 persons engaged in pipe line operations, 78.5 percent of an estimated total of 114,000 persons engaged in refining operations, 61.3 percent of an estimated total of 148,000 persons engaged in wholesale marketing operations and 9.0 percent of an estimated total of 431,000 persons engaged in retail service stations where petroleum products are the principal items of sale. The total employment directly in the Industry as of May 1934, is estimated as 868,000 persons plus perhaps an additional 250,000 to 300,000 employed to handle petroleum products in business establishments of other types.

I will now endeavor to answer those questions in your notice of hearing to which our data are pertinent.

1. Q. How has the limitation of hours affected the volume of employment?

A. From May 1933 to May 1934, in oil field operations, a 34.4 percent average reduction in hours from an average of 54.9 to 36, plus some increase in drilling activity, has increased direct employment of wage-earners by these companies 46.4 percent. Including indirect employment (on their rig-building and drilling operations by contractors), the increase was 77.8 percent. Other data furnished by small "stripper" (or marginal) well employers in ten states indicates a direct employment increase of 46.0 percent in their operations. This showing was made despite a 7.8 percent reduction in the nation's monthly crude oil production.

In pipe line operations, a 27.1 percent reduction in hours from an average of 29.4 to 36 percent has increased employment of wage earners by these companies 23.8 percent, this despite a 7.8 percent reduction in the Nation's monthly volume of crude oil through-put.

In refining operations, a 13.3 percent reduction in hours from an average of 41.5 to 36 has increased employment of wage earners by these companies 16.1 percent.

In marketing operations, a 16.2 percent reduction in hours from an average of 52.5 to a post-code weighted average of 44.0 (40 in wholesale and 48 in serviee stations), has increased employment of wage-earners by these companies 23.5 percent. The increase in service station operations alone was 20.3 percent.

For all clerical, professional and supervisory employees in all operations, a 6.7 percent reduction in hours from an average of 42.0 to 39.2 has increased employment in this group 9.0 percent.

For all classes of workers in these companies, an average of 16.7 percent reduction in hours from an average of 47.4 to 39.5 increased employment 20.7 percent.

The reabsorption of unemployed by these companies is 52,000 direct employees and 12,000 indirect employees of rig-building and drilling contractors. The estimated reemployment for the entire industry is over 217,200 persons.

Neglecting a group of workers temporarily employed in May 1929 in extraordinary construction of new operating units, the increases in employment volume under the Code have been sufficient to reestablish employment in these companies at levels relative to the "pre-depression" peak year 1929 as follows: oil field wage-earners—99.2 percent; pipe line wage-earners—103.0 percent; refining wage-earners—110.8 percent; marketing wage-earners—118.0 percent; clerical, professional and supervisory workers in all branches—101.4 percent; and for the companies as a whole—107.7 percent. These figures represent averages for all areas in which these integrated major companies operate, they do not necessarily represent individual local conditions.

Unemployment today among rig-building and drilling employees in certain areas exists because of decreased development activity, although for the Industry as a whole May 1934 employment in these branches was practically 100.0 percent

relative to that of May 1929. Most unemployment existing today in the oil country is the result of the influx of thousands of persons from distressed agricultural and industrial centers during the "depression" who were attracted by the relatively high wages and relatively good conditions current in the Petroleum Industry.

2. Q. How has the limitation of hours affected the regularization of employment?

A. Limitation of hours perhaps has improved it, although the effort of the Industry to prorate crude oil and gasoline production unquestionably has been the more effective cause. Oil Industry employment always has been reasonably regular.

3. Q. What effect has the limitation of hours and the simultaneously promulgated Code wage requirements had on hourly, weekly and annual earnings of employees.

A. The effect of the Petroleum Code among the aforementioned companies was to increase hourly rates as follows: oil field wage-earners—54.0 percent; pipe line wage-earners—32.7 percent; refining wage-earners—17.7 percent; marketing wage-earners—14.0 percent; clerical, professional and supervisory workers in all branches—8.4 percent; and for the companies as a whole—16.7 percent. It is of interest to note that the hourly rates in the first three groups were brought to 75 cents, 73 cents and 73 cents respectively on a uniform 36-hour week, whereas previously they had been 50 cents, 56 cents and 63 cents on pre-Code weeks of 54.9, 49.4 and 41.5 hours respectively.

The effect of the Code on weekly earnings was as follows: oil field wage earners—held level at about $27.60 despite a 34.4 percent decrease in hours; pipe line wage-earners—decreased 2.9 percent to $26.90 with 27.1 percent decrease in hours; refining wage-earners—increased 1.1 percent to $26.17 despite a 13.3 percent decrease in hours; marketing workers—decreased 4.5 percent to $28.53 with a 16.2 percent decrease in hours; clerical, professional and supervisory workers in all branches—held level at $40.00 despite a 6.7 percent decrease in hours; and for the companies as a whole—decreased 2.1 percent to $30.45 with a 16.7 percent average decrease in hours. The above figures represent averages in all areas in which these integrated companies operate.

The effect on annual earnings was probably the same as that on weekly earnings, as employment regularity has been changed very little by the Code. The actual per capita annual earnings received by all wage-earners in oil field and refinery operations (the only branches covered by statistics of the Bureau of Labor) and in pipe line operations are perhaps higher than those of any comparable industry, and are unusually regular. The Bureau's statistics show that, from September 1, 1933 to November 1, 1934, the average per capita weekly earnings of wage earners in oil field and refinery operations has ranged between the very narrow limits of $25.43 and $28.43 per week.

4. Q. What has been the relation of changes in hourly, weekly and annual earnings to changes in the cost of living?

A. We consider annual earnings (reasonably represented by weekly earnings in this Industry) to be more pertinent than hourly earnings, although we can report general average hourly rates as 66.5 cents in May 1929, 64.4 cents in May 1933 and 75.0 cents in May 1934. Taking the Bureau of Labor Statistics' cost of living in June 1929 as 100.0 percent, in June 1933 it was 75.4 percent and in June 1934 it was 80.1 percent. With respect to full-time weekly earnings on an average 52-hour week in May 1929 taken as 100.0 for the major company employee group as a whole the full-time earnings were 87.4 percent with an average 47.4-hour week in May 1933 and 85.9 percent with an average 39.5-hour week in May 1934. Present earnings produce indices of "real wages" relative to 1929 to 107.2 percent, or "real wages" 7.2 percent higher than those of 1929. This, of course, is a general average, and does not apply in all local operations.

5. Q. How have the limitation of working hours and simultaneously promulgated Code minimum wage requirements affected unit cost of production?

A. From May 1933 to May 1934, payrolls in the Industry as a whole are estimated to have increased about $230,000,000 per annum, or 17.3 percent, due to Code compliance 217,200 persons. Based on an annual sale of about 17.2 billion gallons of gasoline, the principal source of revenue, the increased direct labor cost of the product delivered to the ultimate consumer has been about 1.33 cents per gallon. Considering that the average net delivered price per gallon to the ultimate consumer has been about 13.6 cents during the year, and that the integrated companies have been forced to sell their product at cost or less than cost, it is estimated that the overall increase in unit cost (including raw materials but excluding State and Federal sales tax) has been about 10.9 percent.

6. Q. What has been the effect of the Code wage and hour provisions, as they affect costs, on volume of consumption?

A. The volume of gasoline consumed has increased proportionately to the increased use of motor vehicles as a result of the general pick-up in business in other industries. However, the true answer to the above question is indeterminate. As indicated in Answer 5, direct labor cost per gallon has increased about 10.9 percent; but, although the Industry is not operating at a fair profit, it has been unable to pass the increased cost to the public because of chaotic marketing conditions. The general public has no real conception of true conditions within the Industry, and its reaction when prices may be eventually restored to normal cannot be predicted. The situation is further complicated by the fact that gasoline taxes in many instances equal or exceed the wholesale ex-refinery cost of the gasoline. This situation does not exist in any other industry. The public forgets the tax and considers the price it pays as being the amount the Industry receives for its products.

7. Q. What effect have the increased costs resulting from code compliance had on corporate earnings in the Industry?

A. Until January 1, 1930 the Industry as a whole showed satisfactory profits. An analysis of the earnings of those major companies since that date demonstrates that, whatever may have been the case previously, the rate of return on the 4.6 billion dollar net worth is amazingly and distressingly small. Data compiled by Standard Statistics Company relative to the above referred to representative group of major companies show that the rate of return on the combined net worth for the year 1929 was 8.39% profit, whereas in the three succeeding years the rate of return was 2.50% profit, 2.25% deficit and 0.36% profit, respectively. For the year 1933 the average rate of return was 0.87% profit. For the first six months of 1933, all prior to the promulgation of the Code, the rate of return was 2.00% deficit; however, for the second six months, of which four followed the date of promulgation of the Code, the rate of return was 2.87% profit. For the first half of 1934 the rate of return fell off again to 1.13% profit; and it is likely that the last half of 1934 will show substantial losses because the average retail selling price per gallon fell off from an average of 13.9 cents for the first half of 1934 to 13.3 cents for the last half of 1934. On November 1, 1934 it was 11.72 cents. This change in profit condition is principally due to the rapid migration of gallonage from the company-operated service stations to the open and secret cut-price stations operated by many independent dealers, track-siders and farm cooperatives, whose fear of threatened price-fixing or Code enforcement during the first few months of the Code held them in check.

It has been estimated that their price-cutting tactics have increased their percentage of the total volume of sales from 5 percent of the total business to 20 percent of the total business in metropolitan and agricultural areas, with corresponding relative losses in percent of total business by the Code-abiding companies. Such activities sharply decrease the sales revenues of the Code-abiding companies, which (latter) carry the brunt of all efforts to increase required minimum earnings to employees. For the first half of 1935 these Code-abiding companies have only the harsh alternative of further reducing their posted prices to compete with these Code violators or of losing their essential gallonage, and a continuation of present operating losses appears inevitable.

During the past year a number of old established smaller units have been thrown into receivership, and others have abandoned their refining and marketing operations in an attempt to salvage their investments by concentrating on production of crude oil, the price of which has been maintained by control of the volume of crude oil produced.

An important factor in this situation is the relative position of Petroleum Products index prices. With respect to the 1926 average index price, the July 1934 index price for Petroleum Products was 51 percent whereas the general index price for All Commodities was 75 percent, and the Petroleum Products index price during the last six months has substantially further decreased whereas there has been a sustained improvement in the average price index of All Commodities.

8. Q. Should the maximum working week in codes be reduced, maintained or increased?

A. We would hesitate to recommend any increase in code hours generally because of the probable social consequences. With respect to the other two possibilities we can speak for our Code only. The statistics presented in Answer 1 show that this Industry has reestablished employment of those regularly attached to it at levels 7.7 percent above the abnormal year 19[illegible]. Clearly this performance does not justify a further decrease in the working hours of our Code. Even

in service station operations, where a work week of 48 hours is permitted, employment is at a level 18 percent above 1929.

9. Q. Should the working week and minimum wage requirements in codes be changed by groups of industries or separately by individual industries?

A. We believe that existing disparities in maximum hour and minimum wage requirements between the larger related national-scale industries should be reduced. Either those who now have relatively high obligations should be given relief or they should be excepted if further obligations are imposed generally. This Industry has served as a magnet for unemployed who have drifted to its centers from other industries, attracted by its relatively high requirements and performance. This condition is disruptive also to industrial peace in those other industries. It would not seem necessary to invite attention to the fact that an unskilled laborer, without training or experience, who finds that one industry pays such labor more than his own industry will perhaps first try to obtain employment in that industry and then, having found that it has absorbed its capacity, will be stirred to action by what appears to him to be an unreasonable disparity prejudicial to other employment. The disparity has acted as a boomerang instead of a benefit to those 1929 employees of the industry who have been displaced by such newcomers as have been fortunate to receive employment.

10. Q. Is the degree of flexibility in hours provided by such provisions as overtime, peak periods, averaging, etc., inadequate, adequate or excessive?

A. In our Code they are unwarrantedly restrictive. For example: (a) No latitude of any kind for averaging hours is provided in either wholesale marketing or service station operations. The well-known season fluctuations in consumption, and emergencies imposed upon our day-to-day delivery system, demand a sensible flexibility not now allowed. (b) Clerical workers can work 48 hours in any one week but not more than 80 in any two weeks. This at best creates a 48-hour—32-hour cycle. Our accounting practices require the privilege of working the clerical force not more than 48 hours in any one week but with the averaging extended to the calendar month, a provision enjoyed by many other industries. (c) Oil field, pipe line and refinery shift-workers are limited to 16 hours in any two days, 72 hours in any two weeks, and 40 hours in any one week. These restrictions have made proper distribution of shift work extremely difficult. Overtime is permitted only in emergencies involving breakdowns or protection of life and property.

All codes were aimed to promote industrial recovery, and to increase employment by sensible limitation of the average work week. When the labor group advocates imposition of an unreasonably rigid daily and weekly limit on working hours by Code fiat, it is merely loading additional unproductive burdens on a distressed industrial structure. Reasonable flexibility of averaging hours is most important, and here, again, those codes having unreasonably strict limitations should be liberalized.

11. Q. Do the present provisions work as well as any other methods that can be devised?

A. Those of our Code will work satisfactorily if the averaging is liberalized. Much technical non-compliance will be eliminated, and more respect for the Code as a reasonable regulation will result.

12. Q. What standards should be followed in establishing minimum wages?

A. We favor adherence to historical "going" local or area rate relationships, with a leveling out of requirements between all industries operating in each area. Hourly rates should be such that minimum full-time earnings will bear a reasonable parity historically to the cost of living, i. e., minimum "real wages" should be maintained on a parity in all industries if economically practicable, and within the reasonable ability of the industry to pay.

13. Q. Are present minimum wages satisfactory from the point of view of such standards?

A. Present Petroleum Industry Code minimum requirements, and average wages actually paid, more than meet the above standards.

14. Q. What has been the effect of differentials such as those based on sex, location or population?

A. No differentials are permitted with respect to sex. No justifiable complaints have been made against the present differentials based on geographic areas and population, as they approximate normal historical relationships within the Industry.

15. Q. Are provisions such as several basic minimum wages, classified wage scales, equitable adjustment provisions, or other methods of maintaining wages above the minimum, desirable?

A. It is impossible to classify occupations on a national scale in an industry as complex as ours, or to find a meeting ground for the views of employers and employees as to proper minimum general wage scales for such occupations. An attempt to promulgate such a scale would further and hopelessly overtax the present inadequate enforcement machinery. We believe that such matters are properly subject to local collective bargaining between employers and employees, and that Code bodies should follow a "hands off" policy in this matter.

16. Q. Are wage and hour provisions desirable as temporary or as permanent measures?

A. Theoretically, minimum requirements may be socially desirable as permanent measures if they are reasonable and effectively enforced. Practically, at least in our Industry because unenforced, they are desirable only as an emergency depression measure. In better times there have been but few complaints against Oil Industry working conditions, and it is doubtful if the old days of the 63- and 84-hour week will ever return in the Mid-Continent and Gulf Coast oil fields, now that they have been eliminated. They never returned in California, where they were reduced to 48 hours per week almost 8 years ago. That reduction was brought about through natural forces and not through legislation.

17. Q. What shall be done to meet the problem of overlapping definitions?

A. Attention already has been called to the high maximum hour and minimum wage and full-time weekly earnings provisions in the Petroleum Code. It has been the firm position of the Petroleum Code Authority that all work done normally by employees within the Industry shall be done under the wage and hour provisions of the Petroleum Code only, whether done by contract or otherwise as provided in our Article II, Section 5; but that extraordinary work such as new construction (other than in conjunction with strictly routine development) and special services should be optionally subject to the wagss and hours of the industry with which the contractor is normally associated. We believe that this is a sound policy for codes of all basic industries that are overlapped by codes of service industries.

18. Q. What shall be done to meet the problem of multiple code coverage?

A. Many of our employers have chosen to follow the more restrictive labor provisions of our Code in such special activities as operation of car-repair shops, can and drum factories, candle factories, etc. However, the Petroleum Administration and the Petroleum Code Authority have jointly held that such activities are optionally subject to the less restrictive labor provisions of the codes of the other industries. In the retail marketing field, the views of both groups are indicated by the interpretation of our Article V, Rule 2, which provides that, if a merchant or vendor of petroleum products also sells other products or renders services, employees working in separate departments shall be worked or permitted to work under the provisions of the code applicable to that trade or service, and that all other employees shall be governed by the provisions of that code from which the employer derives the largest part of his gross revenue. We believe that this is a sound policy to be followed in the administration of other codes.

19. Q. What should be done to meet the problem of competing industries?

A. To date this problem has not been a serious one to our Industry. However, we have experienced troublesome code evasion by certain of our petroleum producers who operate in natural gas producing areas because the natural gas industry is operating under the less restrictive provisions of the President's Reemployment Agreement. It is a simple ruse to drill for natural gas and accidentally obtain oil. Also, certain natural gasoline plants on main natural gas transmission lines produce natural gasoline and stabilized motor fuel which is sold locally in competition with refinery gasoline. Certain of these plants are operated under the provisions of the President's Reemployment Agreement. This, however, is in direct violation of a provision of the Petroleum Code, which is not heeded by certain units of the natural gas industry. In general, competitive industries of basically different character perhaps cannot be regimented, but the industrial structure will be greatly stabilized if codes of related or generally similar industries have similar wage and hour provisions.

20. Q. How effective are wage and hour provisions as measures for eliminating unfair competition?

A. As presently unenforced in our industry because of legal and political complications, their effectiveness in eliminating unfair competition has been practically nil. Such of the benefits in this respect gained from the Code by our Industry have resulted from partially effective control of crude oil and refined gasoline production.

At the hearing on our Code labor provisions above referred to, our attention was attracted particularly to a statement made by Mr. William Green in support

of the 30-hour week. It was to this effect: "The Industry has greatly benefited from the operation of the Code. * * * A substantial measure of economic stability has been attained. But the worker attached to the Petroleum Industry who has sought as eagerly economic stability for himself and his dependents, has failed to obtain such stability under the existing provisions of the Code." As we stated in rebuttal, "Clearly this sophism is predicated on the false premises, refuted by our factual data; that the Petroleum Industry has not reabsorbed its full share of pre-Code unemployed workers, and that the 30-hour week is essential to accomplish this end; for otherwise it hopelessly condemns one of the principal aims of the entire recovery program as being impossible of fulfillment. Economic stability of workers presupposes continuity of employment at reasonable earning levels. The Petroleum Code has practically the shortest maximum allowable working hours for comparable types of operation. It has the highest minimum common labor wage rates and weekly earnings, a definitely promulgated though questionably valid historical basis for adjustment of minimum skilled job differentials and an unusually favorable continuity of employment. It has reestablished normal employment generally at an average level 7.7 percent above 1929. If a worker cannot find reasonable economic stability under these conditions, there is no economic security or stability to be expected under any of the codes. We characterize the present effort through administrative fiat to secure substantial increases in the outstandingly favorable comparative benefits already guaranteed workers under the Petroleum Code as having neither economic nor social justifications."

Appendix 4. Tables and Charts

INDEX OF TABLES AND CHARTS

TABLE 1A.—*Historical trends of wage, hour, and weekly earning conditions in the petroleum industry (averages of 20 major companies)*

1. EMPLOYEES' WEEKLY EARNINGS
2. HOURS PER WEEK WORKED BY EMPLOYEES
3. EMPLOYERS' DIRECT COST PER-MAN HOUR OF LABOR

	Operations throughout United States								
	1914	1919	1924	1926	1929	1933	1934	1936	1938
Field Activities:									
Drilling Operations (Driller):									
Average Weekly Earnings	$47	$65	$68	$66	$68	$51	$48	$50	$58
Average Hours Per Week	78	68	67	75	62	51	36	36	36
Average Man-Hour Cost	$0.61	$0.97	$1.03	$1.05	$1.15	$1.06	$1.33	$1.39	$1.49
Production Operations (Pumper):									
Average Weekly Earnings	$21	$32	$34	$33	$34	$26	$27	$30	$33
Average Hours Per Week	72	68	64	61	61	53	36	38	39
Average Man-Hour Cost	$0.31	$0.49	$0.55	$0.57	$0.58	$0.55	$0.76	$0.79	$0.88
Field Maintenance (Rustabout):									
Average Weekly Earnings	$21	$31	$32	$30	$31	$25	$26	$28	$32
Average Hours Per Week	68	61	60	57	56	48	36	38	39
Average Man-Hour Cost	$0.32	$0.51	$0.54	$0.54	$0.57	$0.54	$0.71	$0.74	$0.83
Pipe Line Transportation:									
Pumping Operations (Tour Engineer):									
Average Weekly Earnings	$23	$35	$39	$39	$38	$32	$32	$34	$38
Average Hours Per Week	74	61	57	57	56	46	37	37	37
Average Man-Hour Cost	$0.33	$0.60	$0.70	$0.70	$0.71	$0.72	$0.88	$0.93	$1.03
Line Maintenance (Permanent Laborer):									
Average Weekly Earnings	$16	$28	$29	$28	$28	$23	$22	$24	$28
Average Hours Per Week	62	61	59	56	55	48	36	37	37
Average Man-Hour Cost	$0.26	$0.46	$0.50	$0.50	$0.51	$0.48	$0.61	$0.66	$0.77
Refineries:									
Refiniery Operations (Stillman):									
Average Weekly Earnings	$26	$43	$45	$44	$44	$35	$35	$38	$44
Average Hours Per Week	79	57	54	53	54	44	36	37	37
Average Man-Hour Cost	$0.34	$0.77	$0.85	$0.83	$0.83	$0.81	$0.99	$1.05	$1.20
Plant Maintenance (First Class Mechanic):									
Average Weekly Earnings	$21	$39	$40	$38	$39	$31	$32	$35	$40
Average Hours Per Week	55	51	49	48	49	41	36	36	37
Average Man-Hour Cost	$0.38	$0.77	$0.81	$0.79	$0.79	$0.75	$0.88	$0.95	$1.11
Marketing Operations:									
Bulk Plant Operations (Tank Truck Truck Driver-Salesman):									
Average Weekly Earnings	$23	$27	$32	$31	$32	$28	$29	$30	$34
Average Hours Per Week	71	48	50	54	55	51	41	42	42
Average Man-Hour Cost	$0.41	$0.40	$0.54	$0.59	$0.59	$0.58	$0.70	$0.73	$0.82
Station Maintenance (Pump Maintenance Mechanic):									
Average Weekly Earnings	------	$32	$25	$35	$35	$30	$30	$32	$34
Average Hours Per Week	------	56	55	54	54	47	40	41	41
Average Man-Hour Cost	------	$0.53	$0.60	$0.67	$0.66	$0.65	$0.76	$0.78	$0.85

Source: American Petroleum Institute Special Survey.

TABLE 1B.—*Historical trends of wage, hour, and weekly earning conditions in the petroleum industry*

[Indexes for averages of 20 major companies with base 1914=100]

1. EMPLOYEES' WEEKLY EARNINGS
2. HOURS PER WEEK WORKED BY EMPLOYEES
3. EMPLOYERS' DIRECT COST PER MAN-HOUR OF LABOR

	Operations throughout United States								
	1914	1919	1924	1926	1929	1933	1934	1936	1938
Field Activities:									
Drilling Operations (Driller):									
Average Weekly Earnings	100	138	145	140	145	109	102	106	123
Average Hours per Week	100	87	86	83	79	65	46	46	46
Average Man-Hour Cost	100	159	169	172	189	174	218	228	244
Producing Operations (Pumper):									
Average Weekly Earnings	100	152	162	157	162	124	129	143	157
Average Hours Per Week	100	94	89	85	85	74	50	53	54
Average Man-Hour Cost	100	158	177	184	187	177	245	255	284
Field Maintenance (Roustabout):									
Average Weekly Earnings	100	148	152	143	148	119	124	133	152
Average Hours Per Week	100	90	88	84	82	71	53	56	57
Average Man-Hour Cost	100	159	169	169	178	169	222	231	259
Pipe Line Transportation:									
Pumping Operations (Tour Engineers):									
Average Weekly Earnings	100	152	170	170	165	139	139	148	165
Average Hours Per Week	100	82	77	77	76	62	50	50	50
Average Man-Hour Cost	100	182	212	212	215	218	267	282	312
Line Maintenance (Permanent Laborer):									
Average Weekly Earnings	100	174	180	174	174	144	138	150	175
Average Hours Per Week	100	96	95	90	89	77	58	60	60
Average Man-Hour Cost	100	177	192	192	196	185	235	254	296
Refineries:									
Refinery Operations (Stillman):									
Average Weekly Earnings	100	165	173	169	169	135	135	146	169
Average Hours Per Week	100	72	68	67	68	56	46	47	47
Average Man-Hour Cost	100	226	250	244	244	238	291	309	353
Plant Maintenance (First Class Mechanic):									
Average Weekly Earnings	100	186	190	181	186	148	152	167	190
Average Hours Per Week	100	93	89	87	89	75	65	65	67
Average Man-Hour Cost	100	203	213	208	208	197	232	250	292
Marketing Operations:									
Bulk Plant Operations (Tank Truck Driver-Salesman):									
Average Weekly Earnings	100	117	139	135	139	122	126	130	148
Average Hours Per Week	100	68	70	76	77	72	58	59	59
Average Man-Hour Cost	100	98	132	144	144	142	171	178	200
Station Maintenance (Pump Maintenance Mechanic):[1]									
Average Weekly Earnings	-----	100	78	109	109	94	94	100	106
Average Hours Per Week	-----	100	98	96	96	84	71	73	73
Average Man-Hour Cost	-----	100	113	126	125	123	143	147	160

[1] 1919=100.

Source: American Petroleum Institute Special Survey

TABLE 1c.—*Historical trends of wage and hour conditions in the petroleum industry*

[Indexes with base 1914=100]

1. EMPLOYEES' WEEKLY EARNINGS
2. HOURS PER WEEK WORKED BY EMPLOYEES
3. EMPLOYERS' DIRECT COST PER MAN-HOUR OF LABOR

	Operations in Pennsylvania and Ohio						
	1914	1919	1924	1929	1933	1934	1938
Field Activities:							
Drilling Operations (Driller):							
Weekly Earnings	100	146	132	138	90	95	110
Hours per Week	100	100	86	86	71	48	48
Average Man-Hour Cost	100	146	154	161	126	200	230
Producing Operations (Pumper):							
Weekly Earnings	100	147	164	164	125	146	181
Hours per Week	100	100	100	100	100	83	83
Average Man-Hour Cost	100	147	164	164	125	175	217
Field Maintenance (Roustabout):							
Weekly Earnings	100	147	164	164	125	146	181
Hours per Week	100	100	100	100	100	83	83
Average Man-Hour Cost	100	147	164	164	125	175	217
Pipe Line Transportation:							
Pumping Operations (Tour Engineer):							
Weekly Earnings	100	156	178	178	183	166	194
Hours per Week	100	100	75	67	67	43	43
Average Man-Hour Cost	100	156	237	267	275	388	453
Line Maintenance (Permanent Laborer):							
Weekly Earnings	100	142	150	129	129	91	120
Hours per Week	100	75	75	64	64	43	43
Average Man-Hour Cost	100	189	200	200	200	212	280
Refineries:							
Refining Operations (Stillman):							
Weekly Earnings	100	240	197	197	168	168	198
Hours per Week	100	100	67	67	57	43	43
Average Man-Hour Cost	100	240	295	295	295	393	462
Plant Maintenance (First Class Mechanic):							
Weekly Earnings	100	240	189	189	189	197	245
Hours per Week	100	100	90	90	90	73	73
Average Man-Hour Cost	100	240	210	210	210	270	336
Marketing Operations:							
Bulk Plant Operations (Tank Truck Driver-Salesman):							
Weekly Earnings	100	163	170	173	188	183	235
Hours per Week	100	100	90	89	84	67	67
Average Man-Hour Cost	100	163	189	196	226	274	352
Station Maintenance (Pump Maintenance Mechanic):[1]							
Weekly Earnings	------	100	99	96	108	106	128
Hours per Week	------	100	90	87	84	67	67
Average Man-Hour Cost	------	100	110	110	129	158	192

[1] 1919=100.

Source: American Petroleum Institute Special Survey.

TABLE 1D.—*Historical trends of wage and hour conditions in the petroleum industry*

[Indexes with base 1914=100]

1. EMPLOYERS' WEEKLY EARNINGS
2. HOURS PER WEEK WORKED BY EMPLOYEES
3. EMPLOYERS' DIRECT COST PER MAN-HOUR OF LABOR

	Operations in Mid-Continent and Gulf Coast						
	1914	1919	1924	1929	1933	1934	1938
Field activities:							
Drilling Operations (Driller):							
Weekly Earnings	100	185	185	185	122	99	122
Hours per Week	100	100	100	100	71	43	43
Average Man-Hour Cost	100	185	185	185	170	232	285
Producing Operations (Pumper):							
Weekly Earnings	100	167	175	157	146	139	175
Hours per Week	100	100	100	100	63	57	57
Average Man-Hour Cost	100	167	175	157	230	243	306
Field Maintenance (Roustabout):							
Weekly Earnings	100	160	150	143	133	119	170
Hours per Week	100	100	100	100	63	57	57
Average Man-Hour Cost	100	160	150	143	210	208	296
Pipe Line Transportation:							
Pumping Operations (Tour Engineer):							
Weekly Earnings	100	152	149	150	109	130	157
Hours per Week	100	100	100	100	71	64	64
Average Man-Hour Cost	100	152	149	150	152	202	243
Line Maintenance (Permanent Laborer):							
Weekly Earnings	100	160	180	180	103	129	179
Hours per Week	100	100	100	100	57	51	51
Average Man-Hour Cost	100	160	180	180	180	248	348
Refineries:							
Refining Operations (Stillman):							
Weekly Earnings	100	144	159	155	102	131	168
Hours Per Week	100	67	67	67	43	43	43
Average Man-Hour Cost	100	216	239	233	239	304	391
Plant Maintenance (First Class Mechanic):							
Weekly Earnings	100	171	187	181	128	141	1[illegible]3
Hours per Week	100	89	89	89	67	67	67
Average Man-Hour Cost	100	193	211	204	192	212	274
Marketing Operations:							
Bulk Plant Operations (Tank Truck Driver-Salesman): [1]							
Weekly Earnings	------	100	166	170	138	129	163
Hours per Week	------	100	100	120	67	67	67
Average Man-Hour Cost	------	100	166	141	207	193	245
Station Maintenance (Pump Maintenance Mechanic): [1]							
Weekly Earnings	------	100	108	110	97	89	115
Hours per Week	------	100	100	120	67	67	67
Average Man-Hour Cost	------	100	108	92	146	133	173

[1] 1919=100.

Source: American Petroleum Institute Special Survey.

TABLE 1E.—*Historical trends of wage and hour conditions in the petroleum industry*

[Indexes with base 1914=100]

1. EMPLOYEES' WEEKLY EARNINGS
2. HOURS PER WEEK WORKED BY EMPLOYEES
3. EMPLOYERS' DIRECT COST PER MAN-HOUR OF LABOR

	Operations in California						
	1914	1919	1924	1929	1933	1934	1938
Field Activities:							
Drilling Operations (Driller):							
Weekly Earnings	100	147	143	143	83	100	106
Hours per Week	100	67	67	57	33	40	40
Average Man-Hour Cost	100	220	215	250	250	250	266
Producing Operations (Pumper):							
Weekly Earnings	100	173	190	190	111	133	162
Hours per Week	100	57	57	57	33	40	40
Average Man-Hour Cost	100	302	333	333	333	333	379
Field Maintenance (Roustabout):							
Weekly Earnings	100	173	184	184	107	138	147
Hours per Week	100	76	76	76	44	57	57
Average Man-Hour Cost	100	227	242	242	242	242	258
Pipe Line Transportation:							
Pumping Operations (Tour Engineer):							
Weekly Earnings	100	166	174	174	116	131	146
Hours per Week	100	67	67	67	44	50	50
Average Man-Hour Cost	100	249	261	261	261	261	291
Line Maintenance (Permanent Laborer):							
Weekly Earnings	100	128	175	175	117	138	148
Hours per Week	100	89	89	89	59	67	67
Average Man-Hour Cost	100	144	197	197	197	207	223
Refineries:							
Refining Operations (Stillman):							
Weekly Earnings	100	166	177	177	118	138	152
Hours per Week	100	57	57	57	38	43	43
Average Man-Hour Cost	100	291	310	310	310	321	356
Plant Maintenance (First Class Mechanic):							
Weekly Earnings	100	167	163	163	119	134	160
Hours per Week	100	100	92	92	67	75	75
Average Man-Hour Cost	100	167	178	178	178	178	213
Marketing Operations:							
Bulk Plant Operations (Tank Truck Salesman):							
Weekly Earnings	100	139	178	200	167	167	187
Hours per Week	100	100	100	100	83	83	83
Average Man-Hour Cost	100	139	178	200	200	200	224
Station Maintenance (Pump Maintenance Mechanic):[1]							
Weekly Earnings	------	100	133	141	117	117	124
Hours per Week	------	100	100	100	83	83	83
Average Man-Hour Cost	------	100	133	141	141	141	149

[1] 1919=100.

Source: American Petroleum Institute Special Survey.

TABLE 2A.—*Average weekly earnings, petroleum and comparative industries*

Year	Petroleum production	Petroleum refining	All mfg. industries	Automobiles	Machinery group	Other chemicals	Rubber group	Iron and steel group	Bituminous coal	Textile group
1938:										
December	$33.41	$35.30	$24.24	$33.15	$26.93	$25.66	$28.40	$26.90	$24.05	$16.99
November	33.50	34.86	23.82	34.89	26.07	25.41	27.58	26.72	24.56	16.34
October	33.81	34.45	23.98	34.98	26.07	25.79	27.27	26.13	23.84	17.00
September	34.38	34.58	23.32	33.81	25.57	25.70	26.91	24.59	22.86	17.03
August	34.11	35.25	22.84	32.03	25.03	26.17	25.39	24.12	21.38	16.84
July	33.42	34.60	22.17	29.72	24.34	25.54	24.84	21.65	19.27	15.67
June	34.48	35.26	22.30	29.49	24.68	25.63	23.75	22.17	18.92	15.03
May	33.48	35.78	22.43	27.65	24.96	25.17	23.39	22.75	17.81	15.23
April	34.28	34.57	22.28	28.78	24.94	24.17	22.47	22.44	17.36	15.60
March	34.32	34.88	22.46	26.13	25.34	24.35	21.83	22.12	19.57	16.39
February	34.43	35.23	22.30	25.85	25.48	24.17	21.07	21.54	20.59	16.41
January	33.70	34.28	21.88	25.15	25.61	24.19	22.42	20.42	19.26	15.34
1938	33.94	34.92	22.84	30.14	25.42	25.16	24.61	23.46	20.79	16.16
1937	33.17	33.04	25.11	31.58	28.44	25.54	26.56	29.17	23.76	17.34
1936	29.63	29.01	22.75	29.28	25.24	22.44	25.87	25.72	22.72	16.51
1935	28.63	27.84	21.03	27.19	23.41	21.72	23.07	22.33	19.50	16.03
1934	27.56	26.73	19.05	23.01	(1)	(1)	20.34	(1)	18.08	(1)
1933	27.55	26.67	17.56	20.94	(1)	(1)	18.88	(1)	14.00	(1)
1932	30.01	28.22	18.12	21.27	(1)	(1)	19.33	(1)	13.91	(1)
1931	34.63	31.47	22.78	25.47	(1)	(1)	(1)	(1)	17.92	(1)
1930	36.17	32.44	23.98	25.97	(1)	(1)	(1)	(1)	21.61	(1)
1929	(1)	33.26	27.54	33.50	(1)	(1)	(1)	(1)	24.72	(1)

1 Data not available.

Source: U. S. Bureau of Labor Statistics.

TABLE 2B.—*Average hours worked per week, petroleum and comparative industries*

Year	Petroleum production	Petroleum refining	All mfg. industries	Automobiles	Machinery group	Other chemicals	Rubber group	Iron and steel group	Bituminous coal	Textile group
1938:										
December	39.0	36.4	37.1	36.0	37.4	38.9	37.4	35.6	27.5	35.7
November	39.2	35.8	36.5	37.5	36.2	38.6	36.7	35.1	28.0	34.6
October	39.7	35.5	37.4	38.7	36.3	39.9	36.6	34.9	26.8	35.5
September	40.2	35.3	36.9	36.3	35.4	39.5	35.9	33.0	26.0	35.4
August	40.5	36.0	36.3	34.8	34.6	39.0	33.9	32.4	23.6	34.7
July	39.8	35.2	34.9	32.0	33.5	37.6	32.4	29.1	21.5	32.7
June	40.4	36.3	34.4	31.9	33.3	37.7	31.3	29.6	21.0	31.4
May	39.4	37.0	34.4	30.0	34.1	37.9	31.1	30.2	19.7	31.8
April	39.9	36.0	34.2	31.3	34.0	37.5	30.1	29.8	19.8	31.6
March	40.0	36.2	34.5	28.4	34.5	38.0	29.7	29.6	22.4	32.6
February	40.0	36.4	34.3	28.2	34.6	37.6	28.3	28.9	23.7	32.4
January	39.7	35.3	33.2	27.4	34.5	37.2	29.1	27.7	21.6	30.2
1938	39.8	36.0	35.3	32.7	34.9	38.3	32.7	31.3	23.5	32.4
1937	39.6	36.0	37.7	35.8	40.0	40.4	35.3	38.9	27.8	34.7
1936	38.1	36.0	39.1	38.2	41.0	40.3	37.5	40.0	28.8	35.9
1935	36.0	35.0	36.7	37.7	60.6	56.4	34.8	61.5	26.3	47.3
1934	35.0	34.8	34.6	33.6	(1)	(1)	32.9	(1)	27.1	(1)
1933	41.3	38.2	37.9	34.6	(1)	(1)	(1)	(1)	29.4	(1)
1932	52.0	41.8	37.9	31.3	(1)	(1)	(1)	(1)	27.2	(1)
1931	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
1930	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
1929	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)

1 Data not available.

Source: U. S. Bureau of Labor Statistics.

TABLE 2C.—*Average hourly earnings, petroleum and comparative industries*

Year	Petroleum production	Petroleum refining	All mfg. industries	Automobiles	Machinery group	Other chemicals	Rubber group	Iron and steel group	Bituminous coal	Textile group
1938:										
December	$0.863	$0.974	$0.648	$0.924	$0.721	$0.658	$0.764	$0.757	$0.881	$0.482
November	.856	.979	.645	.932	.720	.657	.756	.757	.879	.478
October	.839	.976	.637	.906	.717	.648	.756	.753	.887	.486
September	.838	.984	.632	.933	.721	.653	.758	.753	.882	.492
August	.829	.986	.629	.924	.720	.672	.760	.753	.888	.489
July	.842	.998	.639	.930	.723	.687	.776	.761	.881	.480
June	.839	.978	.648	.925	.727	.685	.770	.763	.879	.479
May	.852	.975	.650	.920	.729	.672	.769	.763	.884	.479
April	.843	.968	.652	.919	.730	.659	.767	.762	.869	.495
March	.840	.970	.655	.919	.730	.654	.761	.759	.868	.506
February	.862	.976	.656	.917	.730	.659	.773	.760	.871	.510
January	.853	.978	.663	.919	.732	.667	.789	.755	.871	.510
1938	.846	.979	.646	.922	.725	.664	.767	.758	.878	.482
1937	.829	.945	.644	.885	.694	.641	.773	.744	.862	.500
1936	.774	.882	.571	.768	.610	.562	.695	.623	.795	.460
1935	.779	.800	.568	.727	.381	.386	.681	.362	.747	.339
1934	.786	.747	.549	.686	(1)	(1)	.620	(1)	.678	(1)
1933	.647	.650	.463	.601	(1)	(1)	(1)	(1)	.495	(1)
1932	.537	.638	.465	.680	(1)	(1)	(1)	(1)	.520	(1)
1931	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
1930	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
1929	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
1928										
1927										
1926										
1925										
1924										
1923										

[1] Data not available.

Source: U. S. Bureau of Labor Statistics.

TABLE 2D.—*Employment indexes* [*base 1929—100*] *petroleum and comparative industries*

Year	Petroleum production	Petroleum refining	All mfg. industries	Automobiles	Machinery group (machine tools)	Chemicals	Rubber group	Iron and steel (blast furnaces)	Bituminous coal	Textile group (cotton goods)
1938:										
December	67.7	94.9	86.0	96.0	72.9	98.1	75.3	84.6	89.3	94.1
November	68.3	95.6	85.4	91.6	71.1	98.2	74.2	83.7	88.6	92.5
October	69.5	96.1	84.4	77.5	69.3	98.5	70.0	81.2	87.2	93.0
September	71.5	97.3	83.8	58.3	67.9	97.8	68.4	79.1	83.4	93.4
August	72.4	98.0	80.8	43.1	66.8	92.3	65.3	76.9	80.1	90.7
July	72.3	97.9	77.3	47.7	65.8	88.9	61.9	74.3	78.5	82.6
June	72.8	97.4	77.0	55.3	68.4	89.3	63.6	75.3	80.2	80.7
May	73.2	97.2	78.7	61.6	71.2	93.2	64.3	78.1	82.2	83.4
April	73.8	97.5	80.8	65.5	74.0	97.0	65.5	79.7	85.8	87.6
March	73.6	97.4	82.7	71.3	77.0	100.0	65.7	81.7	93.2	90.6
February	74.2	97.8	83.2	73.8	79.2	99.8	66.8	82.6	95.5	90.4
January	75.3	98.7	82.8	76.1	82.6	99.1	70.2	83.6	96.9	85.6
1938	72.1	97.2	81.9	68.2	72.2	96.0	67.6	80.1	86.7	88.7
1937	76.5	102.3	99.8	115.3	98.4	109.9	87.2	119.9	99.3	103.5
1936	72.9	97.5	92.3	102.3	82.1	100.4	81.4	95.8	97.5	101.8
1935	74.9	96.0	86.1	99.2	70.8	97.5	77.0	84.3	94.9	98.8
1934	77.7	96.3	80.8	84.9	63.1	95.6	80.0	77.6	92.3	92.3
1933	62.2	85.6	69.2	54.4	56.2	83.5	71.3	63.7	79.9	86.4
1932	55.3	79.3	62.5	54.4	45.3	72.5	61.9	55.6	76.3	74.3
1931	65.7	85.4	73.7	63.8	62.2	81.6	66.6	68.1	88.9	83.2
1930	87.4	100.4	87.2	72.1	83.3	93.0	77.4	87.0	96.1	89.6
1929	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

NOTE.—Indexes for Manufacturing Industries, given by the U. S. B. of L. S. on Base 1923-25=100, were converted to the non-manufacturing Base 1929—100 so that all data will be comparable.

Source: U. S. Bureau of Labor Statistics.

TABLE 2E.—*Payroll indexes, petroleum and comparative industries*

[Base 1929=100]

Year	Petroleum production	Petroleum refining	All mfg. industries	Automobiles	Machinery group	Other chemicals	Rubber group	Iron and steel group	Bituminous coal	Textile group
1938:										
December	62.5	103.8	78.4	96.2	66.4	97.8	77.3	74.6	80.9	79.2
November	63.3	103.4	76.2	96.4	62.5	96.8	74.0	73.0	81.4	74.5
October	63.7	102.8	75.9	81.8	61.0	98.1	69.2	69.2	78.3	79.0
September	66.5	104.2	73.4	59.4	58.5	96.4	66.6	63.3	71.9	79.9
August	66.8	106.9	69.7	42.1	56.7	93.2	60.3	60.3	64.2	76.0
July	66.7	104.7	63.9	42.5	54.1	87.6	56.7	53.0	56.8	63.3
June	67.6	106.7	64.1	48.7	56.9	88.8	55.2	54.6	57.0	59.3
May	66.7	108.1	66.0	50.9	60.0	91.5	55.0	57.9	55.3	63.0
April	68.0	104.4	67.6	56.7	62.2	91.2	53.8	58.5	56.3	68.1
March	68.0	105.7	69.8	55.8	65.5	94.0	52.9	59.4	68.4	74.1
February	69.6	107.0	69.7	56.2	67.8	93.6	51.2	58.4	74.0	74.1
January	68.2	105.2	67.9	57.7	70.8	92.5	57.4	56.2	70.4	64.6
1938	66.5	105.3	70.2	62.1	61.9	93.5	60.7	61.5	67.9	71.3
1937	68.2	106.9	92.4	111.2	94.5	107.9	84.2	101.4	88.5	87.8
1936	58.6	89.0	77.5	92.1	70.1	87.3	76.0	80.0	82.7	82.5
1935	57.9	83.4	67.1	80.2	54.8	79.6	64.5	61.4	70.1	79.1
1934	56.9	78.8	58.4	61.1	44.4	73.9	60.2	49.8	64.0	69.8
1933	44.1	68.4	45.4	34.3	30.2	61.2	47.8	36.8	45.4	58.7
1932	44.1	67.7	42.3	34.8	27.8	56.5	41.2	28.9	41.3	51.0
1931	61.7	81.1	61.4	47.9	47.8	74.1	54.3	51.4	61.2	71.5
1930	85.9	100.9	81.0	58.9	76.5	90.0	73.6	79.7	83.0	81.4
1929	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

NOTE.—Indexes for Manufacturing Industries, given by the U. S. B. of L. S. on Base 1923–25=100, were converted to the non-manufacturing Base 1929=100 so that all data will be comparable.

Source: U. S. Bureau of Labor Statistics.

TABLE 2F.—*Average annual earnings, petroleum and comparative industries*

	1933 survey R-735	1935 survey R-735	1935 workers included survey R-735	1938 52 x average weekly earnings as currently reported	Workers total average 1938 (from indexes)
Petroleum Refining	$1,300	$1,416	$75,000	$1,816	$78,343
All Mfg. Industries	833	1,061	2,717,000	1,188	6,851,210
Automobiles	1,032	1,401	376,000	1,567	305,649
Machinery Group	988	1,239	190,301	1,322	804,919
Other Chemicals				1,308	290,860
Rubber	934	1,142	110,000	1,280	100,725
Iron and Steel	935	1,223	355,000	1,220	737,932
Bituminous Coal				1,081	397,693
Textiles				840	1,515,342

Source: U. S. Bureau of Labor Statistics.

TABLE 2G.—*Survey of 18 major petroleum companies distribution of 1937 annual earnings of employees compared to reported distribution of national incomes*

Income levels	18 petroleum companies					
	Number of employees			Aggregate earnings		
	Number	Percent	Cumulative percent	Amount x 1,000	Percent	Cumulative percent
$1,000 or Under	5,389	2.24	2.24	$4,462	0.91	0.91
$1,000-$1,250	14,415	5.99	8.23	16,401	3.34	4.25
$1,250-$1,500	27,095	11.26	19.49	36,984	7.52	11.77
$1,500-$1,750	51,555	21.43	40.92	84,381	17.15	28.92
$1,750-$2,000	52,964	22.02	62.94	98,897	20.11	49.03
$2,000-$2,250	34,131	14.19	77.13	71,746	14.59	63.62
$2,250-$2,500	17,604	7.32	84.45	41,747	8.49	72.11
$2,500-$3,000	16,469	6.85	91.30	44,782	9.10	81.21
$3,000-$3,500	7,426	3.09	94.39	23,952	4.87	86.08
$3,500-$4,000	4,565	1.90	96.29	16,963	3.45	89.53
$4,000-$4,500	2,657	1.10	97.39	11,264	2.29	91.82
$4,500-$5,000	1,751	.73	98.12	8,294	1.69	93.51
$5,000-$7,500	3,093	1.29	99.41	18,234	3.71	97.22
$7,500-$10,000	1,001	.42	99.83	8,355	1.70	98.92
$10,000-$12,500	412	.17	100.00	5,330	1.08	100.00
Total	240,527	100.00		491,792	100.00	

Income levels	National totals					
	Number of incomes			Aggregate earnings		
	Number x 1,000	Percent	Cumulative percent	Amounts x 1,000,000	Percent	Cumulative percent
$1,000 or Under	$18,559	46.98	46.98	$10,806	20.22	20.22
$1,000-$1,250	4,991	12.65	59.63	5,589	10.45	30.67
$1,250-$1,500	3,743	9.49	69.12	5,109	9.56	40.23
$1,500-$1,750	2,890	7.32	76.44	4,661	8.72	48.95
$1,750-$2,000	2,296	5.82	82.26	4,214	7.99	56.84
$2,000-$2,250	1,704	4.32	86.58	3,603	6.74	63.58
$2,250-$2,500	1,254	3.18	89.76	2,969	5.56	69.14
$2,500-$3,000	1,475	3.74	93.50	4,005	7.49	76.63
$3,000-$3,500	852	2.16	95.66	2,735	5.12	81.75
$3,500-$4,000	502	1.27	96.93	1,863	3.49	85.24
$4,000-$4,500	286	.72	97.65	1,203	2.25	87.49
$4,500-$5,000	178	.45	98.10	842	1.58	89.07
$5,000-$7,500	380	.96	99.06	2,244	4.20	93.27
$7,500-$10,000	216	.55	99.61	1,848	3.46	96.73
$10,000-$12,500	153	.39	100.00	1,747	3.27	100.00
Total	39,479	100.00		53,438	100.00	

Sources: 18 Companies—Am. Pet. Inst. Special Survey; National Totals—National Resources Committee (Per Bus. Week).

TABLE 2H.—*Common labor entrance wage rates petroleum and comparative industries—data as of July 1938—average hourly wage rates*

Industry	Average of all earners	Average of common labor rates			Change since 1937
		Industry	North and West	South and West	
Petroleum Refining	[1] $0.988	$0.634	$0.675	$0.571	+1.1%
All Mfg. Industries	[2] 0.639	0.504	0.559	0.347	−0.4
Automobiles	[2] 0.930	0.539	0.539		+0.5
Machine Shops	[1] 0.710	0.495	0.511	0.351	+1.4
Chemicals	[1] 0.690	0.525	0.595	0.363	0
Iron and Steel	[1] 0.836	0.581	0.597	0.438	−0.3

[1] Averages for reporting establishments.
[2] Averages for all industry (given because no figure was available for reporting establishments only).

Source: U. S. Bureau of Labor Statistics.

TABLE 21.—*Activity indexes—pertinent statistics affecting volume of employment*

	Drilling (wells drilled)	Production		P. L. transportation	
		Wells produced	Barrels crude oil produced x 1,000	Miles inter. P. L. operated.	Barrels oil moved inter. pipe lines x 1,000
	1	2	3	4	5
1938	27,149	359,045	1,213,254	(1)	(1)
1937	32,560	351,206	1,279,160	96,612	1,288,420
1936	25,888	343,477	1,099,687	94,060	1,101,717
1935	21,470	332,806	996,596	92,037	1,058,840
1934	18,107	327,650	908,065	93,070	1,213,652
1933	12,312	319,419	905,656	93,724	1,189,086
1932	15,040	317,684	785,159	92,783	1,120,843
1931	12,432	299,104	851,081	93,090	1,127,796
1930	21,240	327,268	898,011	88,727	1,172,165
1929	26,356	327,372	1,007,323	85,796	1,156,351
1928	22,331	322,338	901,474	81,676	1,053,191
1927	24,143	319,027	901,129	76,070	989,427
1926	29,319	315,717	770,874	72,840	835,583
1925	25,623	304,319	763,743	70,008	831,200
1924	21,888	298,915	713,940	68,185	757,678
1923	24,438	286,569	732,407	64,760	653,397
1922	24,689	(1)	557,531	57,349	651,260
1921	21,937	(1)	472,183	55,260	525,516
1920	33,911	(1)	442,929	------------	533,976

	Refining		Marketing	
	Barrels crude intake to refineries x 1,000	Barrels motor fuel produced x 1,000	Barrels motor fuel delivered x 1,000	Number vehicles served [2] x 1,000
	6	7	8	9
1938	1,165,015	555,850	521,657	29,512
1937	1,183,440	559,141	519,352	30,041
1936	1,068,570	504,811	481,606	28,522
1935	965,790	457,842	434,810	26,515
1934	895,636	416,932	410,339	25,223
1933	861,254	401,591	380,494	24,058
1932	819,997	392,623	377,791	24,295
1931	894,608	431,510	407,843	26,005
1930	927,447	432,241	397,770	26,719
1929	987,708	435,078	382,878	26,653
1928	913,295	376,945	338,881	24,493
1927	828,835	330,435	305,367	23,133
1926	779,264	299,734	268,128	22,001
1925	739,920	259,601	232,745	19,937
1924	643,719	213,326	196,586	17,595
1923	581,238	179,903	175,088	15,092
1922	500,706	147,672	137,770	12,239
1921	443,363	122,704	116,840	10,463
1920	433,915	116,251	108,945	9,232

[1] Not available.
[2] 1929–1938 includes Government Vehicles.

Sources: 1, 2—Oil and Gas Journal. 3, 6, 7, 8—U. S. Bureau of Mines. 4, 5—Interstate Commerce Commission. 9—Auto Facts and Figures.

TABLE 2J.—*Activity indexes*

[1929=100]

	Drilling (no. wells drilled)	Production		P. L. transportation		Refining		Marketing	
		No. wells produced	Crude oil produced	Pipe lines operated	Oil transported	Crude refined	Motor fuel produced	Motor fuel delivered	Auto vehicles served [1]
	1	2	3	4	5	6	7	8	9
1938	103.0	109.7	120.4	([2])	([2])	118.0	127.8	136.2	110.7
1937	123.5	107.3	127.0	112.6	111.4	119.8	128.5	135.6	112.7
1936	93.2	104.9	109.2	109.6	95.3	108.2	116.0	125.8	107.0
1935	81.3	101.7	98.9	107.3	91.6	97.8	105.2	113.6	99.5
1934	69.0	100.1	90.1	108.5	105.0	90.7	95.8	107.2	94.6
1933	46.7	97.6	89.9	109.2	102.8	87.2	92.3	99.4	90.3
1932	57.0	97.0	77.9	108.1	96.9	83.0	90.2	98.7	91.2
1931	47.2	91.4	84.5	108.5	97.5	90.6	99.2	106.5	97.6
1930	80.6	100.0	89.1	103.4	101.4	93.9	99.4	103.9	100.2
1929	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
1928	84.7	98.5	89.5	95.2	91.1	92.5	86.6	88.5	91.9
1927	91.6	97.5	89.5	88.7	85.6	83.9	76.0	79.8	86.8
1926	111.3	96.4	98.6	84.9	72.3	78.9	68.9	70.0	82.5
1925	97.2	93.0	75.8	81.6	71.9	74.9	59.7	60.8	74.8
1924	83.0	91.3	70.9	79.5	65.5	65.2	49.0	51.3	66.0
1923	92.7	87.5	72.7	75.5	56.5	58.8	41.4	45.7	56.6
1922	93.7	([2])	55.3	66.8	53.3	50.7	33.9	36.0	45.9
1921	83.3	([2])	46.9	64.4	45.4	44.9	28.2	30.5	39.3
1920	128.7	([2])	44.0	....	46.2	43.9	26.7	28.5	34.6

[1] 1929–1938 includes Government vehicles.
[2] Not available.

Sources: 1, 2—Oil and Gas Journal; 3, 6, 7, 8—U. S. Bureau of Mines; 4, 5—Interstate Commerce Commission; 9—Auto Facts and Figures.

TABLE 2K.—*Labor turnover petroleum and comparative industries data for 6 year period 1932–1937*

	Averages of annual figures for 6 years					Indexes of employment		
	Quit [1]	Discharged ([1])	Lay-offs [1]	Total separations [1]	Accessions [1]	12–'31 [2]	12–'37 [2]	% change
Petroleum Refining	5.67	1.16	24.75	31.58	32.52	100.9	123.7	+22.8
Automobiles	14.40	3.27	76.23	93.47	96.96	67.0	100.5	+65.0
Foundries and Mach. Shops	8.84	2.36	34.21	46.32	48.60	60.7	100.3	+65.2
Iron and Steel	10.78	0.98	19.80	31.55	32.24	63.4	96.3	+52.0
All Mfg. Industries	10.78	2.18	34.45	47.42	50.41	72.0	94.5	+31.5

[1] Per Cent of Total Employees per Annum.
[2] Base÷1923–25=100.

Source: U. S. Bureau of Labor Statistics.

TABLE 2L.—*Strikes—petroleum and comparative industries—annual averages for years 1934–1937, inclusive*

Industry	Four-year averages				Four-year totals		
	Number of strikes per 1,000 employees	Percent employees striking	Man-days lost per employee	Number of employees in industry	Total number of strikes	Total employees striking	Total man days lost x 1,000
Petroleum Refining	0.057	1.90	0.59	78,991	18	6,017	186.714
Automobiles	0.123	24.33	2.74	450,218	221	438,227	4,929,134
Machinery Group	0.126	4.73	0.93	875,759	441	165,595	3,243,101
Other Chemicals	0.080	2.09	0.41	305,523	98	25,534	502,326
Rubber	0.226	29.41	2.86	121,340	109	142,734	1,389,153
Iron and Steel	0.127	7.43	1.44	842,331	427	250,262	4,837,661
Bituminous Coal	0.120	34.61	3.22	440,352	212	609,649	5,673,777
Textiles	0.295	16.53	2.59	1,692,946	1,995	1,119,712	17,509,000

Source: U. S. Bureau of Labor Statistics.

TABLE 2M.—*Petroleum industry—estimate of employment for entire industry—derrick and rig building and drilling operations*

Item	May 1929		May 1933		May 1934		1934 index	
	Number	Percent	Number	Percent	Number	Percent	1933=100	1929=100
Wells Completed: [1]								
Eastern	797	--------	147	--------	336	--------	228.0	23.7
Mid-Continent	1,046	--------	451	--------	974	--------	216.0	92.8
Gulf Coast	143	--------	118	--------	134	--------	113.6	94.0
Rocky Mountain	53	--------	13	--------	31	--------	238.0	56.0
California	97	--------	28	--------	36	--------	128.5	36.8.
U. S. total	2,136	--------	757	--------	1,511	--------	199.8	70.7
Rig Building Employees:								
19 Majors	202	11.1	46	6.4	135	7.7	333.3	66.9
Other Producers	154	8.5	38	5.3	107	5.6	356.0	69.5
All Producers	356	19.6	84	11.7	242	13.3	347.0	68.0
All Contractors	1,561	80.4	632	88.3	1,509	86.7	418.5	96.5
Entire Industry	1,917	100.0	716	100.0	1,751	100.0	408.5	96.5
Drilling Employees:								
19 Majors	14,458	38.3	3,365	20.6	8,385	22.3	248.0	58.0
Other Producers	5,022	13.4	2,360	14.4	3,874	8.4	164.0	77.0
All Producers	19,480	51.7	5,725	35.0	12,259	30.7	214.0	63.0
All Contractors	18,233	48.3	10,630	65.0	25,439	69.3	239.5	71.6
Entire Industry	37,713	100.0	16,355	100.0	37,698	100.0	230.0	99.9
Rig Building and Drilling Employees:								
19 Majors	14,660	37.1	3,411	20.0	8,520	21.5	248.3	58.1
Other Producers	5,176	12.8	2,398	14.0	3,981	10.3	162.0	75.0
All Producers	19,836	49.9	5,809	34.0	12,501	31.8	215.5	63.3
All Contractors	19,794	50.1	11,262	66.0	26,948	68.2	262.0	136.1
Entire Industry	39,630	100.0	17,071	100.0	39,449	100.0	231.0	99.8

[1] Average per month for April, May & June.

(Estimated by P. & C. Regional Labor Sub-Committees in 1934.)

TABLE 2N.—*Petroleum industry—estimate of employment for entire industry derrick and rig building and drilling operations*

Item	May 1929		May 1933		May 1934		May 1936		May 1938	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Wells completed: [1]										
Eastern	797	------	147	------	336	------	580	------	663	------
Mid-Continent	1,046	------	451	------	974	------	557	------	441	------
Gulf Coast	143	------	118	------	134	------	1,130	------	1,127	------
Rocky Mountain	53	------	13	------	31	------	87	------	72	------
California	97	------	28	------	36	------	152	------	160	------
U. S. total	2,136	------	757	------	1,511	------	2,506	------	2,463	------
Rig building employees:										
19 majors	202	11.1	46	6.4	135	7.7	401	6.2	330	5.5
Other producers	154	8.5	38	5.3	107	5.6	701	10.7	566	9.6
All producers	356	19.6	84	11.7	242	13.3	1,102	16.9	896	15.1
All contractors	1,561	80.4	632	88.3	1,509	86.7	5,424	83.1	5,038	84.9
Entire industry	1,917	100.0	716	100.0	1,751	100.0	6,526	100.0	5,934	100.0
Drilling employees:										
19 majors	14,458	38.3	3,365	20.6	8,385	22.3	9,348	14.4	8,847	14.2
Other producers	5,022	13.4	2,360	14.4	3,87[illegible]	8.4	13,916	21.6	11,066	17.8
All producers	19,480	51.7	5,725	35.0	12,259	30.7	23,364	36.0	19,913	32.0
All Contractors	18,233	48.3	10,630	65.0	25,439	69.3	41,271	64.0	42,223	68.0
Entire Industry	37,713	100.0	16,355	100.0	37,698	100.0	64,635	100.0	62,136	100.0
Rig Building and Drilling Employees:										
19 Majors	14,660	37.1	3,411	20.0	8,520	21.5	9,049	13.9	9,177	13.5
Other Producers	5,176	12.8	2,398	14.0	3,981	10.3	14,617	20.5	11,632	17.1
All Producers	19,836	49.9	5,809	34.0	12,501	31.8	24,466	34.4	20,809	30.6
All Contractors	19,794	50.1	11,262	66.0	26,948	68.2	46,695	65.6	47,261	69.4
Entire Industry	39,630	100.0	17,071	100.0	39,449	100.0	71,161	100.0	68,070	100.0

[1] Average per month for April, May, and June.

(1929, 33, 34, estimated by P. & C. Regional Labor Sub-Committees.)
(1936, 38, estimated by A. P. I. Production Committees.)

TABLE 2N 1.—*Survey of 18 major petroleum companies—employment in rig building and drilling operations (including contractors' employees)*

	May 1934			May 1936			May 1938		
	Number	Percent	Percent	Number	Percent	Percent	Number	Percent	Percent
Well Data:									
All Wells Drilled [1]	1,511	100.0	-------	2,506	100.0	-------	2,463	100.0	------
Wells of 18 Larger Companies [1]	380	25.1	100.0	618	24.6	100.0	536	21.8	100.0
Own Employees Used for—									
Rig Building On [1]	109	7.2	28.7	85	3.4	13.8	77	3.1	14.3
Drilling On [1]	196	13.0	51.5	246	9.8	39.8	252	10.4	47.0
Employment Data:									
For Industry in Total:									
Rig Building Employees [2]	1,751	-------	-------	6,526	-------	-------	5,934	-------	------
Drilling Employees [2]	37,698	-------	-------	64,635	-------	-------	62,136	-------	------
All Employees [2]	39,449	100.0	-------	71,161	100.0	-------	68,070	100.0	------
Wells of 18 Larger Companies:									
Probable Total Employment [3]	13,840	35.1	100.0	20,300	28.5	100.0	17,930	26.3	100.0
Own Employees [1]	7,782	19.6	56.2	8,194	11.5	40.3	8,499	12.5	47.4
Contractors' Employees [3]	6,058	15.5	43.8	12,206	17.0	59.7	9,428	13.8	52.6
Employment Per Well:									
Industry Average	26.1	-------	-------	28.4	-------	-------	27.6	-------	------
18 Larger Companies	36.5	-------	-------	32.8	-------	-------	33.4	-------	------
Other Producers	22.6	-------	-------	26.9	-------	-------	20.6	-------	------

[1] Reported data.
[2] Estimated data from Table 2n.
[3] Estimated by H. H. Anderson.

TABLE 2o.—*1933 and 1935 Bureau of the Census statistics on service station employment*

	1935	1933
Number of stations:		
Individually operated	177, 529	130, 188
Chains and multi-units	20, 039	40, 216
Total	197, 568	170, 404
Number of proprietors:		
At individually operated	179, 531	152, 164
At chains and multi-units	489	4, 287
Total	179, 870	156, 451
Number of full time employees:		
At individually operated	111, 727	60, 939
At chains and multi-units	53, 645	82, 452
Total	165, 372	143, 391
Number of part time employees:		
At individually operated	34, 896	12, 164
At chains and multi-units	3, 486	16, 257
Total	38, 382	28, 421
Total employees:		
At individually operated	145. 527	73, 103
At chains and multi-units	58. 226	98, 709
Total	203. 753	172, 812
Annual full time earnings	$165, 728. 000	$141, 903, 000
Annual part time earnings	11, 400, 000	10, 035, 000
Total	$177. 128, 000	$151, 938, 000
Monthly full time earnings	$85. 00	$82. 50
Monthly part time earnings	25. 00	29. 08

TABLE 2p.—*Marketing employment and payroll data—Petroleum and its products—year 1935*

WHOLESALE DISTRIBUTION

	Number of establishments	Net sales	Operating expenses	Proprietors and firm members	Employees	Payrolls (excluding proprietors)	Stocks on hand
Bulk-Tank Stations	27, 333	$2, 704, 047, 000	$391, 095	3, 546	[1] 108, 323	$174, 142	$157, 687
Wholesalers	674	132, 999, 000	17, 137	389	4, 437	8, 089	6, 485
Manufacturers-Sales Branches	56	18, 175, 000	3, 081		814	1, 910	1, 981
Manufacturers-Sales Offices	25	46, 880, 000	7, 017	1	955	2, 350	
Agents and Brokers	109	72, 733, 000	1, 729	63	327	867	144
	28, 197	$2, 974, 834, 000	$420, 059	3, 999	114, 856	$187, 358	$160, 297
Independent Stations	3, 880	$298, 627, 000	$37, 147	3, 075	12, 901	$17, 460	$13, 667
Chain Operators	17, 017	2, 002, 546, 000	284, 859	471	78, 258	129, 461	122, 718
Commission Operators	6, 436	402, 874, 000	69, 089		[1] 17, 164	[1] 27, 221	21, 302

[1] Estimate.

TABLE 2P.—*Marketing employment and payroll data—Petroleum and its products—year 1935*—Continued

RETAIL AND WHOLESALE DISTRIBUTION COMBINED

	Retail filling stations	Wholesale establishments	Totals
Proprietors and Firm Members	179,870	3,999	183,869
Employees	203,753	114,856	318,609
Total	383,623	118,855	502,478
Number of Establishments	197,568	28,197	225,765
Net Sales	$1,967,714,000	$2,974,714,000	$4,942,428,000
Payrolls (Excluding Proprietors	$177,128,000	$187,358,000	$364,486,000
Total Operating Expense	$356,727,000	$420,059,000	$776,786,900
Stocks on Hand	$73,550,000	$160,297,000	$233,847,000

Source: U. S. Census of Business 1935.

TABLE 2Q.—*Employment and payrolls of pipe line carriers engaged in interstate commerce* [1]

[Index base 1929=100.0]

Year	Carriers reporting	All employees				General office employees				All other employees			
		Employment		Annual payrolls		Employment		Annual payrolls		Employment		Annual payrolls	
		Number	Index	$×1,000	Index	Number	Index	$×1,000	Index	Number	Index	$×1,000	Index
1937	59	24,168	103.0	[2] $45,055	97.4	2,177	90.2	$5,400	91.4	21,991	104.5	$39,340	97.5
1936	60	23,235	99.1	38,248	82.7	2,064	85.5	4,969	84.1	21,171	100.6	33,279	82.5
1935	53	21,515	91.7	34,670	75.0	2,049	84.9	4,896	82.9	19,466	92.5	29,775	73.8
1934	53	20,853	88.9	32,462	70.2	1,928	79.9	4,514	76.4	18,925	89.9	27,948	69.3
1933	49	18,884	80.5	27,880	60.3	1,765	73.1	3,974	67.3	17,119	81.4	23,906	59.3
1932	49	16,291	69.9	28,184	60.9	1,725	71.5	4,259	72.1	14,566	69.2	23,925	59.3
1931	51	19,854	84.6	36,447	78.8	1,890	78.3	4,539	76.9	17,964	85.4	31,908	79.1
1930	40	21,948	93.6	40,473	87.5	2,381	98.6	6,158	104.3	19,567	92.9	34,315	85.1
1929	37	23,457	100.0	46,251	100.0	2,414	100.0	5,905	100.0	21,043	100.0	40,346	100.0
1928	33	25,270	107.7	44,498	96.2	2,233	92.5	5,656	94.1	23,037	109.5	38,943	96.5
1927	33	28,411	121.1	45,187	97.7	2,096	86.8	5,030	85.2	26,315	125.1	40,158	99.5
1926	34	27,346	116.6	38,110	82.4	2,203	91.3	4,976	84.3	25,143	119.5	33,133	82.1
1925	37	20,693	88.2	34,626	74.9	1,852	76.7	4,609	78.1	18,841	89.5	30,017	74.4
1924	36	22,460	95.7	35,039	75.8	2,034	84.3	4,691	79.4	20,426	97.1	30,348	75.2
1923	35	24,055	102.5	35,401	76.5	2,142	88.7	4,577	77.5	21,913	104.1	30,825	76.4
1922	36	17,399	74.2	28,630	61.9	1,945	80.6	4,129	69.9	15,454	73.4	24,501	60.7

[1] Probably covers about 92% of the Industry Branch.
[2] One company reported total payrolls only, and this amount, therefore, is not distributed in the two groups shown.

Source: Interstate Commerce Commission. Statement No. 396.

TABLE 2R.—*Employment and payrolls in refineries*

[Index base 1929=100]

Census year	Number of establishments	Wage earners [1]		Annual payrolls	
		Employment	Index	$×1,000	Index
1937	365	83,183	103.2	$140,415	107.4
1935	395	77,402	96.1	109,611	83.5
1933	389	69,047	87.0	89,794	68.3
1931	376	68,824	85.5	107,474	81.9
1929	390	80,596	100.0	131,177	100.0
1927	354	71,234	88.5	113,717	86.6
1925	359	65,324	81.0	104,645	79.6
1923	382	66,717	82.8	103,834	79.1
1921	366	63,189	78.5	102,294	78.0

[1] Not including salaried officers and employees.

Source: U. S. Bureau of the Census.

TABLE 2S.—*Employment and productivity in the oil and gas fields* [1]

	Totals			At oil wells			At gas wells			At nat'l gas'l plts.		
	1937	1936	1935	1937	1936	1935	1937	1936	1935	1937	1936	1935
Employment: [1]												
Full time	135,829	114,393	(2)	121,371	100,936	(2)	5,763	5,267	(1)	8,695	8,190	(2)
Part Time	16,365	17,604	(2)	12,321	12,903	(2)	3,310	3,093	(2)	734	1,008	(2)
Total	152,194	131,397	108,735	133,692	113,839	93,450	9,073	8,360	7,288	9,429	9,198	7,997
Hours/Week of Full Time Workers	(2)	(2)	(2)	40.5	39.5	(2)	49.6	50.2	(2)	41.3	40.1	(2)
Hours/Year of Part Time Workers	(2)	(2)	(2)	811	835	(2)	722	784	(2)	974	952	(2)
Total Man Hours (× 1,000):												
Full Time	263,345	238,029	(2)	229,836	207,213	(2)	14,856	13,735	(2)	18,653	17,081	(2)
Part Time	13,102	14,160	(2)	9,998	10,775	(2)	2,389	2,425	(2)	715	960	(2)
Total	276,447	252,189	(2)	239,834	217,998	(2)	17,245	16,160	(2)	19,368	18,041	(2)
Labor Productivity:												
Barrels/Man Hour	(2)	(2)	(2)	5.33	5.04	(2)	(1)	(1)	(2)	(2)	(2)	(2)
Gallons/Man Hour	(2)	(2)	(2)	(1)	(1)	(2)	(1)	(1)	(2)	106.6	99.6	(2)

[1] Excludes most salaried workers (nearly 8,000 in 1935).
[2] Data not given.

Source: U. S. Bureau of Mines. M. M. S. No. 728.

TABLE 2T.—*Estimated earnings in retail service stations—comparison of 1934 and 1938 operations (data 7 major petroleum companies)*

	Per station per month							
	Averages	Mid-continent and east	East	Mid-continent	Middle West	Middle West	Middle West	Pacific coast
1934 company operation:								
Labor bill [1]	$245	$184	$364	$223	$178	$204	$220	$303
1938 dealer operation:								
Gross Normal Margins [2]	$299	$260	$514	$271	$258	$233	$228	$335
Revenues from Miscellaneous Service [3]	72	53	78	54	76	40	112	83
Total receipts	371	313	592	325	334	273	340	418
Rents Paid [4]	68	65	116	50	66	52	58	66
Miscellaneous Expenses [1]	43	20	105	48	24	35	50	23
Total other expenses	111	85	221	98	90	87	108	89
Available for labor	$260	$228	$371	$227	$244	$186	$232	$329

[1] 1934 actual figures.
[2] Estimated 1938 actual margins applied to 1938 actual gallonage.
[3] Estimate of 1938 revenue based on 1934 actual or 1938 estimated performance.
[4] 1938 actual figures.

Source: Am. Petr. Inst. Special Survey.

Survey of 18 major petroleum companies [1]

TABLE 3A.—AVERAGE WEEKLY WAGES

Month of May	Office and supervisory	Production (1)	Pipe lines (2)	Refining (3)	Average of (1, 2, and 3)	Wholesale marketing	Service stations
1938	$47.79	$36.19	$35.89	$35.48	$35.80	$39.37	$26.64
1936	44.02	31.09	30.32	29.39	30.14	36.35	26.33
1934	41.58	28.04	27.52	27.14	27.51	31.79	23.94
1933	41.44	27.25	27.46	25.92	36.55	33.86	24.35
1929	45.39	37.09	32.41	32.16	34.08	36.32	29.57

TABLE 3B.—AVERAGE HOURS WORKED

Month of May	Office and supervisory	Production (1)	Pipe lines (2)	Refining (3)	Average of (1, 2, and 3)	Wholesale marketing	Service stations
1938	39.5	37.2	36.8	36.1	36.6	42.7	47.9
1936	39.6	37.0	36.6	36.0	36.4	42.7	47.8
1934	39.4	36.3	36.1	35.9	36.1	44.2	47.9
1933	41.3	50.1	49.1	41.2	45.1	51.4	53.4
1929	43.4	57.6	57.2	49.6	53.6	54.1	54.9

TABLE 3C.—AVERAGE HOURLY RATES

Month of May	Office and supervisory	Production (1)	Pipe lines (2)	Refining (3)	Average of (1, 2, and 3)	Wholesale marketing	Service stations
	([2])						
1938	$1.209	$0.972	$0.976	$0.983	$0.978	$0.922	$0.556
1936	1.112	0.840	0.828	0.816	0.828	0.851	0.551
1934	1.055	0.772	0.736	0.756	0.762	0.719	0.500
1933	1.003	0.544	0.559	0.630	0.589	0.659	0.456
1929	1.046	0.643	0.567	0.649	0.637	0.671	0.539

[1] Averages for: 211,141 employees in 1938. 236,916 employees in 1929.
[2] In most cases these employees are paid by the month. The hourly rates have been determined by dividing the monthly salaries by the "hours worked" reported above, on the basis of 4.33 weeks per month.

Sources: 1929–34—P. & C. Labor Sub-Committee. 1936–38—Am. Petr. Inst. Special Survey.

TABLE 3D.—*Survey of 18 major petroleum companies* [1]

NUMBER OF EMPLOYEES

Month of May	Totals except service stations	Office and supervisory	Production (1)	Pipe lines (2)	Refining (3)	Total of (1, 2, and 3)	Wholesale marketing	Service stations
1938	201, 514	58, 789	38, 328	11, 583	50, 404	100, 315	42, 414	9, 627
1936	195, 099	54, 065	36, 524	12, 412	49, 827	98, 763	42, 271	17, 742
1934	193, 480	51, 049	33, 777	12, 268	49, 023	95, 068	47, 263	37, 007
1933	161, 470	47, 120	23, 268	10, 124	40, 308	73, 700	40, 650	27, 680
1929	217, 004	50, 334	45, 106	14, 683	58, 153	117, 942	48, 728	19, 692

EMPLOYMENT INDEXES

[Base 1929=100]

Month of May	Totals except service stations	Office and supervisory	Production (1)	Pipe lines (2)	Refining (3)	Total of (1, 2, and 3)	Wholesale marketing	Service stations
1938	93. 0	116. 8	85. 0	78. 9	86. 7	85. 1	87. 0	48. 9
1936	90. 0	107. 4	81. 0	84. 5	85. 7	83. 7	86. 7	90. 1
1934	89. 2	101. 4	74. 9	83. 6	84. 3	80. 6	97. 0	187. 9
1933	74. 4	93. 6	51. 6	69. 0	69. 3	62. 5	83. 4	140. 6
1929	100. 0	100. 0	100. 0	100. 0	100. 0	100. 0	100. 0	100. 0

[1] Includes: 211,141 employees in 1938. 236,916 employees in 1929.

Sources: 1929–34: P. & C. Labor Sub-Committee. 1936–38: Am. Petr. Inst. Special Survey.

TABLE 3E.—*Survey of 18 major petroleum companies* [1]

TOTAL PAYROLLS

Month of May	Totals except service stations	Office and supervisory	Production (1)	Pipe lines (2)	Refining (3)	Total of (1, 2, and 3)	Wholesale marketing	Service stations
	×*1,000*	×*1,000*	×*1,000*	×*1,000*	×*1,000*	×*1,000*	×*1,000*	×*1,000*
1938	$34, 953	$12, 167	$6, 007	$1, 800	$7, 744	$15, 551	$7, 235	$1, 110
1936	29, 851	10, 306	4, 916	1, 630	6, 342	12, 888	6, 657	2, 023
1934	27, 023	9, 190	4, 101	1, 462	5, 760	11, 323	6, 510	3, 836
1933	22, 895	8, 455	2, 745	1, 204	4, 324	8, 474	5, 964	2, 918
1929	34, 966	9, 894	7, 244	2, 061	8, 098	17, 403	7, 669	2, 521

PAYROLL INDEXES

[Base 1929=100]

Month of May	Totals except service stations	Office and supervisory	Production (1)	Pipe lines (2)	Refining (3)	Total of (1, 2, and 3)	Wholesale marketing	Service stations
1938	100. 0	123. 0	82. 9	87. 3	95. 6	89. 4	94. 3	44. 0
1936	85. 4	104. 2	67. 9	79. 1	78. 3	74. 1	86. 8	80. 3
1934	77. 4	92. 9	56. 6	70. 9	71. 1	65. 1	84. 9	152. 2
1933	65. 0	85. 5	37. 9	58. 4	53. 4	48. 7	77. 8	115. 8
1929	100. 0	100. 0	100. 0	100. 0	100. 0	100. 0	100. 0	100. 0

[1] Includes: 211,141 employees in 1938. 236,916 employees in 1929.

Sources: 1929–34—P. & C. Labor Sub-Committee. 1936–38—Am. Pet. Inst. Special Survey.

TABLE 4A.—OFFICE, PROFESSIONAL, CLERICAL, AND MANAGEMENT EMPLOYEES

Company or subsidiary	May 1929				May 1933				May 1934				May 1936				May 1938			
	Number of employees	Monthly pay roll	Hours per week	Weekly wage	Number of employees	Monthly pay roll	Hours per week	Weekly wage	Number of employees	Monthly pay roll	Hours per week	Weekly wage	Number of employees	Monthly pay roll	Hours per week	Weekly wage	Number of employees	Monthly pay roll	Hours per week	Weekly wage
East	1,393	$304,727	41.0	$50.88	1,184	$252,201	41.0	$49.54	1,312	$303,136	37.5	$53.73	1,288	$290,408	37.5	$52.03	1,321	$330,008	37.5	$57.81
Mid-Continent and East	2,130	409,411	44.0	44.36	1,447	242,216	43.0	38.63	1,740	274,828	39.0	36.45	2,093	339,500	40.0	37.46	2,124	382,601	40.0	41.60
Do	(2)				(2)				(2)				(2)				(2)			
Do	691	126,486	44.0	42.24	700	111,547	44.0	36.77	731	117,870	40.0	37.21	727	120,634	40.0	38.57	747	132,160	40.0	41.46
Mid-Continent	688	136,206	44.0	45.72	1,048	192,334	40.0	42.38	1,143	213,601	40.0	43.16	1,230	236,983	39.0	44.49	1,592	319,825	39.0	46.39
Do	1,771	356,086	48.0	46.40	1,429	264,066	48.0	42.65	1,705	305,307	40.0	41.33	2,087	386,429	40.0	42.76	2,213	463,890	40.0	48.41
Do	20	5,025	40.0	56.84	13	3,206	40.0	55.79	14	3,121	40.0	50.44	15	4,415	40.0	67.92	16	4,705	40.0	67.85
East	337	65,845	40.0	45.09	1,183	197,466	40.0	38.51	1,262	219,878	39.0	40.21	1,090	179,842	38.8	38.07	862	174,748	38.8	46.78
Pacific Coast	3,401	664,584	41.3	45.13	3,017	550,940	37.7	42.17	3,131	561,808	37.7	41.44	3,022	602,286	40.0	46.13	3,212	681,437	40.0	49.11
Middle West	3,336	637,423	44.0	42.50	3,655	640,547	44.0	38.35	4,301	741,654	40.0	38.61	4,796	862,801	40.0	39.07	5,397	092,213	40.0	45.45
East	4,872	1,028,864	40.7	47.68	3,753	769,200	37.6	46.52	3,782	788,014	37.3	47.04	3,766	874,726	37.0	52.45	3,770	981,844	37.0	58.81
Pacific Coast	1,203	239,048	44.0	44.87	897	178,822	37.5	45.01	1,094	210,268	37.5	42.40	1,274	247,826	37.5	43.91	1,612	338,183	37.5	47.36
Middle West	36	8,875	42.5	56.90	117	18,923	40.0	37.32	154	22,482	40.0	33.69	133	23,853	40.0	41.39	148	28,837	40.0	45.05
Mid-Continent	1,211	251,382	43.0	47.90	1,407	229,906	39.0	37.71	1,474	255,809	39.0	40.00	1,415	260,708	39.0	42.52	1,531	323,060	39.0	48.69
Middle West	242	48,720	47.3	46.46	383	63,402	42.5	38.30	399	67,244	40.0	38.89	385	67,249	40.0	40.31	418	81,004	40.0	44.73
Do	297	44,241	45.0	34.38	331	52,107	40.0	36.33	343	52,408	40.0	35.26	424	67,001	37.5	36.47	532	90,753	37.5	39.37
Do	138	31,707	44.5	52.95	253	48,585	40.0	44.32	278	52,692	40.0	43.74	311	56,510	40.0	41.96	279	53,825	40.0	44.56
Pacific Coast	(2)				(2)				(2)				(2)				(2)			
Middle West	(2)				(2)				(2)				(2)				(2)			
East	270	53,572	39.7	44.80	190	34,184	39.7	40.63	182	34,355	38.7	42.62	173	42,285	38.8	56.40	173	46,424	38.8	61.90
Pacific Coast	3,355	783,114	44.3	53.91	4,025	794,870	39.2	45.61	4,231	844,660	40.3	46.10	4,484	941,089	40.6	48.47	4,976	1,086,490	40.4	50.43
Middle West	6,731	1,232,055	43.8	42.25	5,882	1,002,824	43.0	39.35	6,617	1,119,770	40.7	39.06	7,236	1,255,580	40.4	40.05	7,660	1,487,373	40.4	44.82
Do	733	93,081	48.0	29.31	702	78,655	48.0	25.35	699	80,381	34.0	26.54	745	101,146	40.0	33.94	740	109,217	40.4	36.89
East	(1)				(1)				(1)				(1)				(1)			
Mid-Continent	1,347	246,158	44.0	42.17	1,558	265,020	40.0	39.26	1,758	307,411	40.0	40.47	1,955	360,158	40.0	42.55	2,184	434,713	40.0	45.97
Middle West	776	159,693	44.0	47.52	776	148,650	38.0	44.24	879	163,397	40.0	42.90	824	168,277	40.0	47.13	894	173,342	40.0	44.75
East	978	182,438	41.0	43.05	1,187	203,895	41.0	39.64	1,340	228,962	40.0	39.42	1,867	394,752	40.0	48.79	2,288	491,304	40.0	49.56
United States	9,138	1,783,419	43.8	45.04	7,927	1,428,336	43.6	41.58	8,097	1,465,871	39.9	41.27	7,827	1,532,596	40.0	45.26	8,919	1,840,775	39.2	47.65
Mid-Cont., East, and Pac. Coast	3,097	610,358	41.0	45.48	2,370	404,656	39.6	39.40	2,718	473,044	38.3	40.17	2,908	532,818	38.4	42.61	2,873	564,743	38.4	45.71
Pacific Coast	2,143	391,987	44–48.0	42.21	1,686	279,216	40.0	38.22	1,665	282,085	40.0	39.00	1,990	356,243	40.0	41.31	2,308	453,403	40.0	45.33
Mid-Continent and East	(2)				(2)				(2)				(2)				(2)			
Total	50,334	9,894,482	43.4	45.39	47,120	8,455,771	41.3	41.44	53,049	9,190,056	39.4	41.58	54,065	10,306,115	39.6	44.02	58,789	12,166,927	39.5	47.79

[1] Data available but not segregated into groups.

[2] Data for 1929 not available.

TABLE 4B.—EXPLORATION, DRILLING, PRODUCTION, AND NATURAL GASOLINE EMPLOYEES

Company or subsidiary	May 1929				May 1933				May 1934				May 1936				May 1938			
	Number of employees	Monthly pay roll	Hours per week	Weekly wage	Number of employees	Monthly pay roll	Hours per week	Weekly wage	Number of employees	Monthly pay roll	Hours per week	Weekly wage	Number of employees	Monthly pay roll	Hours per week	Weekly wage	Number of employees	Monthly pay roll	Hours per week	Weekly wage
East	348	$64,825	70.0	$42.99	99	$15.725	63.0	$36.66	230	$31,896	36.0	$32.00	308	$49,080	36.0	$36.77	423	$78,137	36.0	$42.68
Mid-Continent and East	3,117	411,614	59.0	30.50	1,964	191,990	54.0	22.56	3,122	290,190	35.0	21.45	3,431	383,764	39.0	25.83	2,831	379,737	42.0	30.97
Do	824	121,537	69.9	34.00	761	82,510	62.5	25.22	985	94,063	40.7	22.00	1,061	145,819	38.0	31.72	1,266	191,732	40–48	34.95
Do	902	106,748	48.0	27.31	538	45,065	48.0	19.33	669	68,600	36.0	23.66	550	57,945	36.0	24.31	566	72,353	36.0	30.03
Mid-Continent	896	126,837	68.5	32.69	993	102,805	56.6	23.91	1,293	145,850	36.0	26.05	973	118,878	36.0	28.41	1,021	151,673	40.0	34.31
Do	2,023	270,843	63.0	30.90	1,006	114,333	63.0	26.23	1,410	153,691	36.0	25.16	1,601	207,414	36.0	29.92	1,863	289,187	36.0	35.85
Do	108	14,659	58.5	30.71	61	5,561	58.5	20.62	124	12,914	36.0	23.56	132	16,709	48.0	29.21	104	13,103	48.0	29.07
East	(3)				(3)				(3)				(3)				(3)			
Pacific Coast	3,608	669,564	48.0	42.61	1,119	154,232	40.0	31.83	1,596	216,011	36.0	31.26	1,951	276,661	36.0	32.82	1,932	299,869	36.0	35.93
Middle West	2,585	401,284	73.5	35.73	845	107,204	73.5	29.21	1,620	185,290	36.0	26.31	2,335	278,226	36.0	27.50	2,258	321,463	36.0	32.85
East	(3)				(3)				(3)				(3)				(3)			
Pacific Coast	2,457	446,662	48.0	41.95	761	98,220	32.0	27.42	914	125,138	36.0	30.52	972	151,144	36.0	35.10	982	170,225	36.0	39.13
Middle West	(3)				(3)				(3)				(3)				(3)			
Mid-Continent	6,279	939,744	65.0	34.54	2,847	336,506	64.0	27.28	4,384	504,046	36.0	26.53	4,053	548,354	36.0	31.22	4,935	826,829	36.0	38.66
Middle West	(3)				(3)				(3)				(3)				(3)			
Do	(3)				(3)				(3)				(3)				(3)			
Do	(3)				(3)				(3)				(3)				(3)			
Pacific Coast	(2)				(2)				(2)				(2)				(2)			
Middle West	(3)				(3)				(3)				(3)				(3)			
East	2,890	336,714	48.0	26.31	1,525	153,743	48.0	22.76	2,078	218,317	39.0	23.71	2,272	261,196	40.0	26.52	2,161	282,541	40.0	30.10
Pacific Coast	4,709	908,642	48.0	43.57	2,025	235,265	28.7	26.23	2,429	353,076	35.2	32.82	2,203	327,933	35.2	33.61	2,251	361,485	35.5	36.26
Middle West	2,129	334,249	60.0	36.23	1,218	133,108	44.0	25.22	1,505	191,701	36.0	29.40	2,623	359,277	36.3	31.60	2,686	429,079	37.0	36.86
Do	(3)				(3)				(3)				(3)				(3)			
East	(1)				(1)				(1)				(1)				(1)			
Mid-Continent	2,873	496,568	60.8	39.88	2,563	339,466	40.0	30.57	3,768	511,832	36.0	31.35	3,525	539,584	36.0	35.35	3,983	713,848	36.0	41.39
Middle West	(3)				(3)				(3)				(3)				(3)			
East	1,250	161,193	68.0	29.76	752	107,483	67.0	32.99	1,205	169,604	36.0	32.48	1,327	197,338	36.0	34.32	1,407	235,477	36.0	38.62
United States	3,665	649,217	60.0	40.88	2,067	264,191	59.1	29.50	3,599	467,678	38.1	30.00	4,245	579,395	37.0	30.96	4,461	687,690	37.0	34.97
Mid-Cont., East, & Pac. Coast	2,396	402,542	52.2	38.77	1,201	137,988	38.7	26.52	1,568	190,598	34.5	28.05	1,507	206,980	35.7	31.94	1,553	241,426	36.0	36.15
Pacific Coast	2,047	381,037	48–56.0	42.95	923	120,336	40.0	30.06	1,278	170,606	36.0	30.80	1,455	210,936	36.0	33.45	1,645	261,330	36.0	36.66
Mid-Continent and East	(2)				(2)				(2)				(2)				(2)			
Total	45,106	7,244,479	57.6	37.09	23,268	2,745,731	50.1	27.25	33,777	4,101,101	36.3	28.04	36,524	4,916,633	37.0	31.09	38,328	6,007,184	37.2	36.19

[1] Data available but not segregated into groups.

[2] Data for 1929 not available.

[3] No operations.

TABLE 4c.—REFINERY EMPLOYEES

East	4,581	$620,680	53.0	$31.51	3,470	$398,759	46.0	$26.72	5,539	$644,385	36.0	$27.05	3,370	$452,779	36.0	$31.01	3,007	$512,502	36.0	$39.33
Mid-Continent and East	2,678	362,405	55.0	31.25	2,016	231,348	50.0	26.50	2,569	263,187	35.0	23.66	2,361	293,454	36.0	28.70	2,216	315,186	36.0	32.85
Do	(2)				(2)				(2)				(2)				(2)			
Do	907	132,948	48–56.0	33.83	746	83,395	40–48.0	25.79	983	107,836	36.0	25.31	995	119,995	36.0	28.04	983	131,446	36.0	31.09
Mid-Continent	33	4,607	61.3	32.24	449	42,879	48.0	22.06	710	73,969	36.0	24.06	700	73,765	36.0	24.35	618	96,132	40.0	35.89
Do	1,655	210,836	56.0	29.40	1,643	160,920	42.0	22.60	1,798	190,989	36.0	24.51	1,901	232,316	36.0	28.22	1,310	186,484	36.0	32.88
Do	22	3,484	58.5	35.82	6	849	78.0	32.02	17	1,998	36.0	26.59	12	1,455	48.0	27.98	11	1,472	48.0	30.88
East	(3)				(3)				(3)				(3)				(3)			
Pacific Coast	2,909	436,451	48.0	34.31	1,508	183,647	41.0	27.97	1,739	209,031	36.0	28.04	1,914	243,999	36.0	29.51	1,820	266,351	36.0	33.88
Middle West	5,892	720,670	50.4	28.15	2,652	334,638	38.0	29.04	3,490	441,538	36.0	27.14	4,147	527,221	36.0	29.34	4,002	621,683	36.0	35.85
East	4,082	540,651	47.5	29.88	2,543	282,728	35.8	25.07	3,121	363,788	36.0	26.30	3,544	440,507	36.0	28.07	3,603	552,180	36.0	34.61
Pacific Coast	810	166,373	48.0	35.38	331	41,470	52.0	22.91	450	50,504	36.0	31.93	417	52,982	36.0	28.68	575	89,751	36.0	35.23
Middle West	82	12,394	56.0	34.13	108	14,639	48.0	31.28	138	17,781	36.0	29.73	164	20,869	36.0	29.36	156	24,730	36.0	36.58
Mid-Continent	3,640	456,971	51.0	28.97	2,287	220,495	44.0	22.35	2,505	281,740	36.0	25.96	2,476	298,997	36.0	27.87	2,219	340,690	36.0	35.43
Middle West	42	7,128	59.0	39.17	91	10,958	40.0	27.79	77	9,981	36.0	25.31	98	12,708	36.0	29.92	113	17,694	36.0	36.13
Do	425	48,390	48.0	25.71	461	44,895	48.0	21.99	392	45,474	36.0	26.77	375	45,263	36.0	27.85	480	72,605	36.0	34.91
Do	105	14,025	48.0	30.85	229	24,685	48.0	24.88	250	29,767	36.0	27.49	255	37,864	36.0	34.29	272	49,570	36.0	42.08
Pacific Coast	(2)				(2)				(2)				(2)				(2)			
Middle West	(2)				(2)				(2)				(2)				(2)			
East	(3)				(3)				(3)				(3)				(3)			
Pacific Coast	3,784	613,932	48.0	36.63	2,375	284,046	32.0	27.01	2,609	347,232	36.0	30.05	2,956	409,904	36.2	31.31	2,925	456,525	36.0	35.24
Middle West	8,260	1,217,515	49.1	34.02	5,950	642,446	39.7	24.92	7,435	866,307	36.0	26.89	7,207	912,766	36.0	29.23	7,687	1,197,001	36.0	35.94
Do	(3)				(3)				(3)				(3)				(3)			
East	(1)				(1)				(1)				(1)				(1)			
Mid-Continent	4,523	632,479	48.0	32.27	2,848	310,086	35.7	25.13	2,774	353,720	36.0	29.43	3,701	494,380	36.0	30.85	4,580	754,274	36.0	38.03
Middle West	1,249	160,396	48.0	29.66	1,198	127,599	40.0	24.00	1,322	157,780	36.0	27.56	1,357	183,502	36.0	31.21	1,508	218,554	36.0	33.35
East	937	147,615	56.0	36.36	1,415	176,282	48.0	28.75	1,917	232,590	36.0	28.00	2,095	266,720	36.0	29.38	2,114	309,634	36.0	33.81
United States	7,533	955,487	46.9	29.27	4,670	491,519	42.8	24.29	5,652	623,505	36.0	25.48	6,230	730,489	36.0	27.25	6,555	949,377	36.0	33.66
Mid-Cont., East, & Pac. Coast	2,575	404,669	48.1	36.55	2,081	271,352	40.2	30.32	2,243	292,336	35.8	30.31	2,355	327,893	35.7	32.38	2,461	395,521	36.0	37.38
Pacific Coast	1,429	227,684	48.0	36.77	1,231	144,296	40.0	27.05	1,293	154,595	36.0	27.59	1,197	161,791	36.0	31.19	1,189	185,017	36.0	35.91
Mid-Continent and East	(2)				(2)				(2)				(2)				(2)			
Total	58,153	8,097,790	49.6	32.16	40,308	4,523,931	41.2	25.92	49,023	5,760,033	35.9	27.14	49,827	6,341,619	36.0	29.39	50,404	7,744,379	36.1	35.48

[1] Date available but not segregated into groups.
[2] Data for 1929 not available.
[3] No operations.

TABLE 4D.—PIPE LINE EMPLOYEES

Company or subsidiary	May 1929				May 1933				May 1934				May 1936				May 1938			
	Number of employees	Monthly pay roll	Hours per week	Weekly wage	Number of employees	Monthly pay roll	Hours per week	Weekly wage	Number of employees	Monthly pay roll	Hours per week	Weekly wage	Number of employees	Monthly pay roll	Hours per week	Weekly wage	Number of employees	Monthly pay roll	Hours per week	Weekly wage
East	265	$44, 775	56. 0	$38. 99	331	$47, 797	55. 7	$33. 58	418	$57, 808	36. 0	$32. 16	620	$78, 035	36. 0	$29. 05	607	$99, 805	$36. 0	$37. 94
Mid-Continent and East	493	66, 186	60. 0	31. 26	390	44, 756	56. 0	26. 78	484	55, 113	36. 0	28. 47	549	59, 218	44. 0	24. 91	394	52, 711	40. 0	30. 90
Do	192	27, 740	59. 0	33. 00	121	16, 138	59. 0	31. 00	198	20, 978	42. 0	24. 50	140	17, 930	36. 0	29. 56	159	24, 377	40. 0	35. 38
Do	408	47, 672	60. 9	26. 96	201	20, 752	60. 0	23. 83	221	26, 370	36. 0	27. 54	186	25, 146	36. 0	31. 20	192	29, 723	36. 0	35. 72
Mid-Continent	19	2, 755	61. 7	33. 49	170	15, 345	54. 0	20. 85	314	30, 353	36. 0	22. 32	253	28, 335	38. 0	25. 86	290	39, 235	41. 0	31. 24
Do	148	19, 648	56. 0	30. 63	176	23, 093	56. 0	30. 28	270	31, 492	36. 0	26. 92	301	38, 819	36. 0	30. 55	312	45, 628	36. 0	33. 77
Do	(3)				(3)				(3)				(3)				(3)			
East	(3)				(3)				(3)				(3)				(3)			
Pacific Coast	134	20, 143	48. 0	39. 69	123	15, 462	40. 0	29. 01	132	16, 692	36. 0	29. 19	120	16, 379	36. 0	31. 59	170	24, 846	36. 0	33. 83
Middle West	2, 185	334, 941	68. 0	35. 28	958	124, 651	47. 3	29. 95	1, 103	135, 750	36. 0	28. 32	1, 191	158, 587	36. 0	30. 73	1, 276	182, 912	36. 0	33. 08
East	9	1, 741	48. 0	43. 70	17	2, 878	40. 0	37. 92	32	4, 144	36. 0	28. 93	24	3, 495	36. 0	32. 88	26	4, 298	36. 0	37. 33
Pacific Coast	388	55, 492	48. 0	35. 16	304	34, 002	32. 0	24. 86	326	40, 782	36. 0	26. 39	300	40, 326	36. 0	30. 34	234	38, 541	36. 0	37. 18
Middle West	(3)				(3)				(3)				(3)				(3)			
Mid-Continent	1, 421	177, 573	64. 0	28. 84	980	110, 288	59. 0	25. 97	1, 009	131, 498	36. 0	30. 08	1, 197	161, 660	36. 0	31. 17	1, 164	187, 098	36. 0	37. 09
Middle West	(3)				(3)				(3)				(3)				(3)			
Do	10	1, 277	54. 0	28. 84	55	5, 691	40. 0	23. 88	77	8, 115	40. 0	24. 32	99	12, 308	40. 0	28. 69	110	17, 966	40. 0	37. 69
Do	(3)				(3)				(3)				(3)				(3)			
Pacific Coast	(2)				(2)				(2)				(2)				(2)			
Middle West	(2)				(2)				(2)				(2)				(2)			
East	(3)				(3)				(3)				(3)				(3)			
Pacific Coast	1, 466	250, 573	48. 0	38. 59	645	79, 233	32. 5	27. 74	645	89, 221	36. 0	31. 20	655	93, 222	36. 2	32. 14	574	89, 724	36. 3	35. 30
Middle West	1, 887	236, 327	69. 1	28. 90	1, 215	147, 566	67. 4	28. 03	2, 257	215, 811	36. 0	22. 07	1, 530	188, 258	36. 0	28. 40	1, 348	194, 097	36. 0	33. 23
Do	(3)				(3)				(3)				(3)				(3)			
East	(1)				(1)				(1)				(1)				(1)			
Mid-Continent	3, 375	417, 389	48. 0	28. 54	2, 554	278, 865	40. 0	25. 20	2, 220	283, 358	36. 0	29. 46	2, 780	358, 121	36. 0	29. 75	2, 253	389, 957	36. 0	39. 97
Middle West	(3)				(3)				(3)				(3)				(3)			
East	128	19, 492	56. 0	35. 14	203	29, 198	56. 0	33. 19	330	46, 625	36. 0	32. 61	295	44, 130	36. 0	34. 53	311	54, 052	36. 0	40. 11
United States	1, 289	177, 936	55. 6	35. 44	826	103, 615	55. 6	28. 95	1, 338	158, 724	36. 0	27. 38	1, 052	149, 425	37. 6	28. 38	1, 220	178, 388	39. 9	33. 07
Mid-Cont., East, & Pac. Coast	415	68, 696	49. 9	38. 20	411	49, 561	41. 9	27. 83	449	53, 786	36. 0	27. 65	646	92, 465	36. 0	33. 29	589	93, 022	36. 0	36. 73
Pacific Coast	451	70, 479	48. 0	36. 06	444	55, 046	40. 0	28. 61	445	54, 996	36. 0	28. 52	474	63, 857	36. 0	31. 09	354	53, 449	36. 0	34. 84
Mid-Continent and East	(2)				(2)				(2)				(2)				(2)			
Total	14, 683	2, 060, 835	57. 2	32. 41	10, 124	1, 203, 937	49. 1	27. 46	12, 268	1, 461, 616	36. 1	27. 52	12, 412	1, 629, 716	36. 6	30. 32	11, 583	1, 799, 829	36. 8	35. 89

[1] Data available but not segregated into groups. [2] Data for 1929 not available. [3] No Operations.

TABLE 4E.—MARKETING EMPLOYEES (INCLUDING RETAIL SERVICE STATIONS)

East	3,498	$484,255	48.2	$32.19	3,780	$478,469	51.2	$29.44	4,833	$588,142	42.7	$28.30	4,501	$568,630	42.3	$29.15	3.918	$624,769	41.7	$36.85
Mid-Continent and East	4,935	746,608	53.0	34 94	6,893	719,051	52.0	28.18	7,192	771,401	43.0	24.77	3,733	431,331	44.0	26.68	2,779	360,525	44.0	29.96
Do	(2)				(2)				(2)				(2)				(2)			
Do	(1)				(1)				(1)				(1)				(1)			
Mid-Continent	190	20,078	76.0	24.41	407	44,742	48.9	25.39	357	37,441	40.0	24.22	332	37,585	40.0	26.13	357	44,727	40.0	28.91
Do	1,564	217,698	60.0	32.15	626	75,384	60.0	27.77	822	96,348	40.5	27.05	1,098	122,704	40.0	25.81	796	103,502	40.0	30.02
Do	(2)				(2)				(2)				(2)				(2)			
East	592	70,514	54.7	77.48	3,277	332,789	55.0	23.45	3,652	364,644	40–48	23.06	2,371	292,870	40–48	28.50	1,917	289,925	40–48	34.90
Pacific Coast	3,555	546,102	52.9	35.45	4,120	498,545	45.8	27.93	4,579	528,961	46.6	26.66	4,143	556,694	46.7	31.01	1,321	205,574	40.0	35.91
Middle West	1,730	228,775	60.0	30.43	2,753	349,662	60.0	29.23	4,384	443,384	40–48	25.46	1,575	197,144	40–48	28.89	1,070	153,283	40–48	33.06
East	6,739	944,964	55.2	33.25	6,903	866,918	49.2	28.96	8,353	1,036,992	43.8	28.11	5,647	859,535	41.0	34.37	4,502	824,927	39.0	41.38
Pacific Coast	542	79,054	48.0	37.78	752	74,898	32.0	18.43	680	79,889	40.0	25.08	726	78,898	40.0	24.53	661	97,455	40.0	33.28
Middle West	76	11,195	60.0	33.99	127	16,499	52.0	29.96	213	27,124	42.0	29.39	269	33,772	40.0	28.97	245	35,761	40.0	33.69
Mid-Continent	622	74,497	60.0	27.64	1,290	112,223	64.0	20.08	2,831	233,658	40–48	19.05	821	90,158	40–48	25.34	428	62,190	40.0	33.53
Middle West	376	43,354	58.5	26.61	628	62,798	52.0	23.08	750	76,097	40–48	23.41	658	70,587	44.56	24.76	672	83,302	44.2	28.61
Do	912	97,219	60 0	24.60	1,404	163,945	48.0	26.95	1,825	192,257	48.0	24.31	946	140,397	40.0	34.25	1,013	154,227	40 0	35.14
Do	400	61,807	48.0	35.68	606	75,081	48.0	28.59	892	102,900	40–48	28.64	1,067	154,014	40.0	33.34	742	133,518	40.0	41.55
Pacific Coast	(2)				(2)				(2)				(2)				(2)			
Middle West	(2)				(2)				(2)				(2)				(2)			
East	108	10,292	56.0	21.52	32	2,145	56.0	15.13	128	9,693	48.0	17.10	120	9,751	48.0	18.75	47	5,050	48.0	24.80
Pacific Coast	6,203	1,03[illegible]	48.0	37.73	5,647	809,357	45.2	32.36	5,966	844,559	44.1	31.97	5,885	867,410	44.3	33.28	6.228	965,825	44.5	35.02
Middle West	22,068	3,359,521	57.1	35.13	16,705	2,420,551	57.0	33.41	20,575	2,837,758	53.3	31.83	11,483	2,325,171	50.0	46.74	11,053	2,246,290	50.2	46 91
Do	2,465	532,656	48.0	49.20	2,212	416,236	48.0	42.50	3,176	530,235	34.0	38.85	2,391	307,492	40.0	32.15	2,489	254,485	40.0	25.56
East	(1)				(1)				(1)				(1)				(1)			
Mid-Continent	409	43,207	72.0	24.39	319	35,411	40.0	25.63	469	49,861	40.0	24.55	342	44,782	40.0	30.24	346	52,344	40.0	34.94
Middle West	3,095	422,065	56.0	31.51	2,371	337,346	56.0	32.18	2,542	350,770	40–48	31.87	2,213	299,496	40–48	31.23	2,211	315,963	40–48	32.98
East	1,135	138,755	55.1	28.21	1,873	190,737	51.1	23.50	2,448	245,314	44.2	23.13	2,261	253,529	43.8	25.88	1,253	183,315	40.2	33.76
United States	2,590	321,172	53.1	28 62	1,960	218,609	52.2	25.74	2,444	263,223	40–48	24.85	2,423	282,987	40.6	26.94	2,436	340,997	40.5	32.30
Mid-Cont., East, & Pac. Coast	2,236	345,381	53.0	35.92	1,818	252,509	44.2	32.30	2,093	286,262	40.0	31.80	1,934	280,349	40.0	33.71	2.125	330,537	40.0	36.17
Pacific Coast	2,380	354,242	48.0	34.35	2,827	328,782	48–60	26.84	3,066	349,106	40–48	26.28	3,074	375,099	40–48	28.16	3,432	477,354	40–48	32.10
Mid-Continent and East	(3)				(3)				(3)				(3)				(3)			
Total	68,420	10,189,929	54.3	34.37	68,330	8,882,687	52.2	30.00	84,270	10,346,019	45.8	28.33	60,013	8,680,385	44.2	33.38	52,041	8,345,845	43.7	37.01

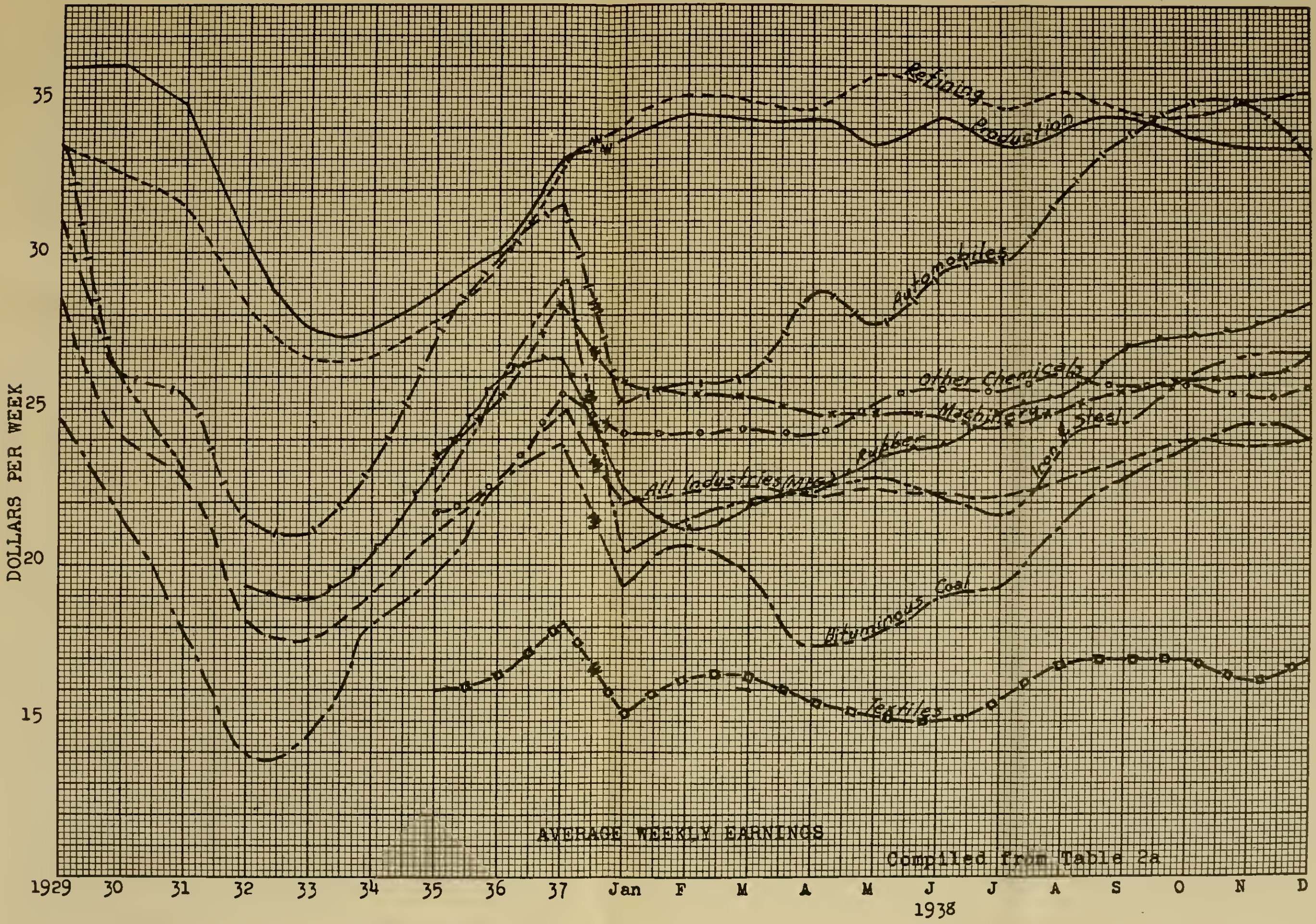
[1] Data available but not segregated into groups.
[2] Data for 1929 not available.
[3] No operations.

TABLE 47.—MARKETING RETAIL SERVICE STATIONS EMPLOYEES ONLY

Company or subsidiary	May 1929				May 1933				May 1934				May 1936				May 1938			
	Number of employees	Monthly pay roll	Hours per week	Weekly wage	Number of employees	Monthly pay roll	Hours per week	Weekly wage	Number of employees	Monthly pay roll	Hours per week	Weekly wage	Number of employees	Monthly pay roll	Hours per week	Weekly wage	Number of employees	Monthly pay roll	Hours per week	Weekly wage
East	944	$98,214	48.0	$24.22	1,312	$132,518	48.0	$23.31	1,646	$158,289	48.0	$22.21	977	$96,846	48.0	$22.88	479	$55,364	48.0	$26.67
Mid-Continent and East	1,686	196,387	54.0	26.90	2,351	247,913	53.0	24.35	3,111	279,786	47.0	20.77	883	98,609	48.0	25.79	425	46,542	48.0	25.29
Do	(3)				(3)				(3)				(3)				(3)			
Do	(1)				(1)				(1)				(1)				(1)			
Mid-Continent	131	12,841	84.0	22.64	134	14,891	44.0	25.66	50	4,747	40.0	21.92	13	1,244	40.0	22.10	None			
Do	704	81,375	63.0	26.69	75	7,082	63.0	21.81	300	23,986	48.0	18.46	362	31,991	48.0	20.41	40	4,201	48.0	24.25
Do	(3)				(3)				(3)				(3)				(3)			
East	163	15,942	48.0	22.57	2,065	162,672	48.0	18.18	2,146	184,278	48.0	19.82	1,041	103,956	48.0	23.00	348	37,566	48.0	24.91
Pacific Coast	1,330	175,246	56.0	30.42	2,511	268,186	48.0	24.67	2,999	321,435	48.0	24.75	2,827	367,068	48.0	29.98	None			
Middle West	975	104,495	48.0	24,73	1,300	170,692	48.0	30.30	2,881	264,396	48.0	21.18	21	2,095	48.0	23.02	18	1,782	48.0	22.85
East	830	97,369	58.1	26.72	3,524	376,855	54.8	27.54	4,311	469,917	47.9	26.31	1,737	183,014	46.5	20.45	382	44,141	47.0	24.95
Pacific Coast	None				225	11,099	48.0	11.14	223	21,459	48.0	21.72	16	1,780	48.0	25.11	None			
Middle West	33	4,125	63.0	28.85	48	4,823	63.0	23.19	58	5,842	48.0	23.24	48	4,623	48.0	22.23	None			
Mid-Continent	188	19,119	60.0	23.47	773	53,902	64.0	16.09	2,221	142,892	48.0	14.85	327	28,311	48.0	19.98	None			
Middle West	288	30,888	57.9	24.75	385	35,708	55.0	21.41	484	45,769	48.0	21.83	375	38,604	48.0	23.76	356	41,912	48.0	27.17
Do	292	29,675	60.0	23.47	441	26,586	48.0	13.91	1,012	83,601	48.0	19.06	99	83,064	40.0	19.50	17	1,907	40.0	25.89
Do	188	19,846	48.0	24.37	281	25,679	48.0	21.10	420	41,550	48.0	22.85	469	51,668	48.0	25.40	75	9,536	48.0	29.36
Pacific Coast	(3)				(3)				(2)				(3)				(3)			
Middle West	(2)				(2)				(2)				(2)				(2)			
East	86	7,553	56.0	20.30	1	93	56.0	21.25	95	5,784	48.0	14.00	80	6,381	48.0	18.45	4	398	48.0	23.00
Pacific Coast	2,271	294,112	48.0	29.24	2,663	300,600	49.9	25.49	2,781	321,331	48.0	26.09	2,834	335,905	48.0	26.76	3,230	397,766	48.0	27.80
Middle West	4,877	884,514	59.9	41.86	4,759	631,757	60.4	30.64	6,411	894,055	48.0	32.18	903	90,662	48.0	23.17	593	60,537	48.0	23.56
Do	1,574	110,180	48.0	16.13	1,042	75,024	48.0	16.61	1,553	160,896	48.0	23.90	906	103,948	48.0	26.40	348	29,587	48.0	19.63
East	(1)				(1)				(1)				(1)				(1)			
Mid-Continent																				
Middle West	1,933	213,236	56.0	25.46	1,108	127,388	56.0	26.54	1,317	144,956	48.0	25.38	1,210	143,477	48.0	27.46	1,278	161,464	48.0	29.31
East	635	64,667	56.0	23.27	1,023	84,889	56.0	19.15	1,272	106,193	48.0	21.70	1,088	107,490	48.0	22.80	37	4,042	48.0	25.39
United States	443	49,700	54.0	25.91	429	42,780	53.8	23.03	436	43,000	48.0	22.79	163	13,988	48.0	19.85	184	18,944	48.0	23.79
Mid-Cont., East, and Pac. Coast	121	11,817	54.0	22.55	14	1,282	54.0	21.14	31	2,308	48.0	17.19	12	984	48.0	19.00	229	28,196	48.0	28.63
Pacific Coast	(4)	(4)	(4)	(4)	1,216	116,002	60.0	22.01	1,249	109,329	48.0	20.20	1,351	127,194	48.0	21.73	1,584	166,472	48.0	24.25
Mid-Continent and East	(3)				(3)				(3)				(3)				(3)			
Total	19,692	2,521,301	54.9	29.57	27,680	2,918,421	53.4	24.35	37,007	3,835,799	47.9	23.94	17,742	2,022,902	47.8	26.33	9,627	1,110,357	47.9	26.64

[1] Data available but not segregated into groups.
[2] Data for 1929 not available.
[3] No operations.
[4] Service station operated by lessees.

CHART 2A


DOLLARS PER WEEK
35
30
25
20
15
Retining
Production
Automobiles
Other Chemicals
Machinery
Iron & Steel
Rubber
All Industries (NICB)
Bituminous Coal
Textiles
AVERAGE WEEKLY EARNINGS
Compiled from Table 2a
1929
30
31
32
33
34
35
36
37
Jan
F
M
A
M
J
J
A
S
O
N
D
1938

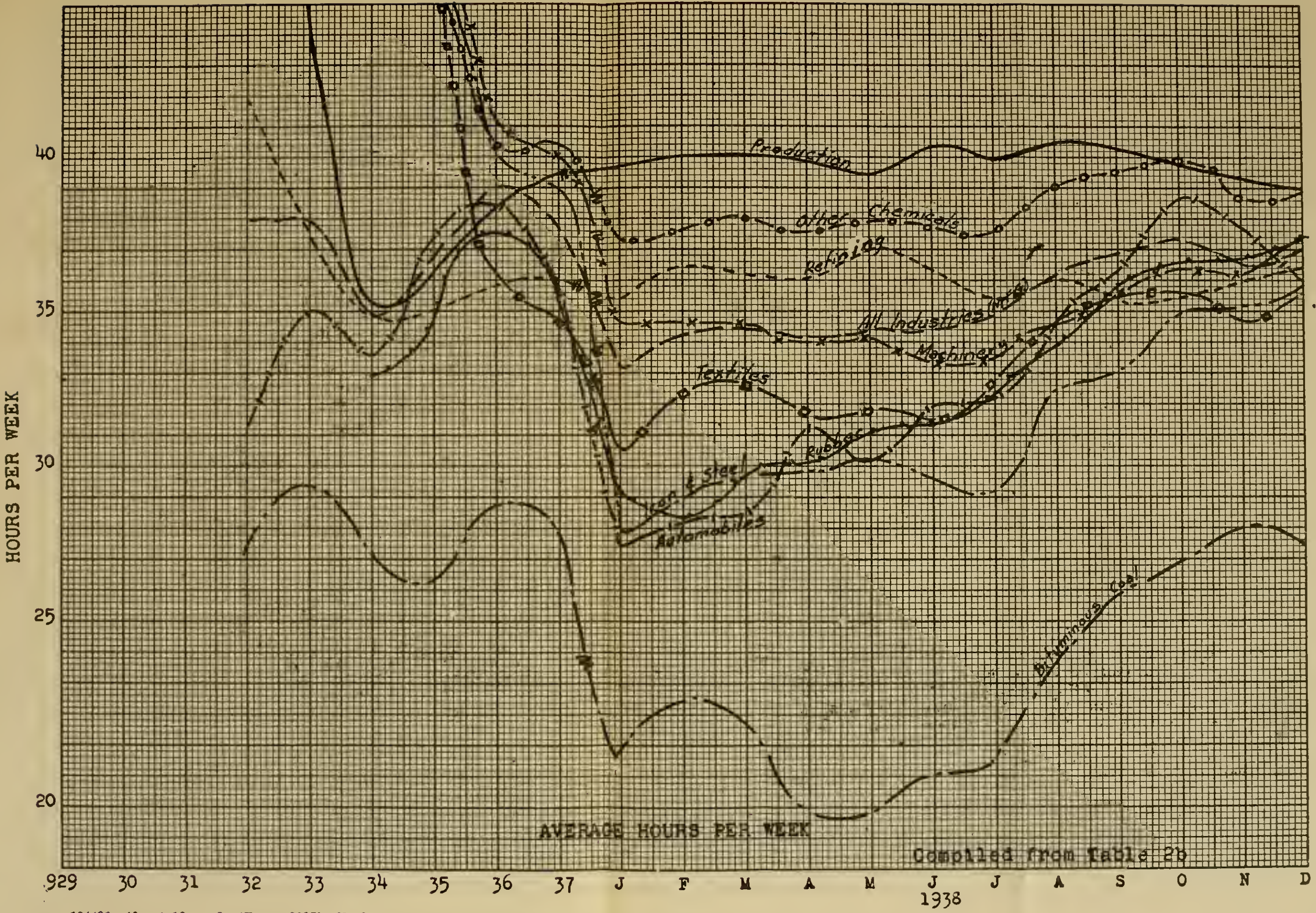
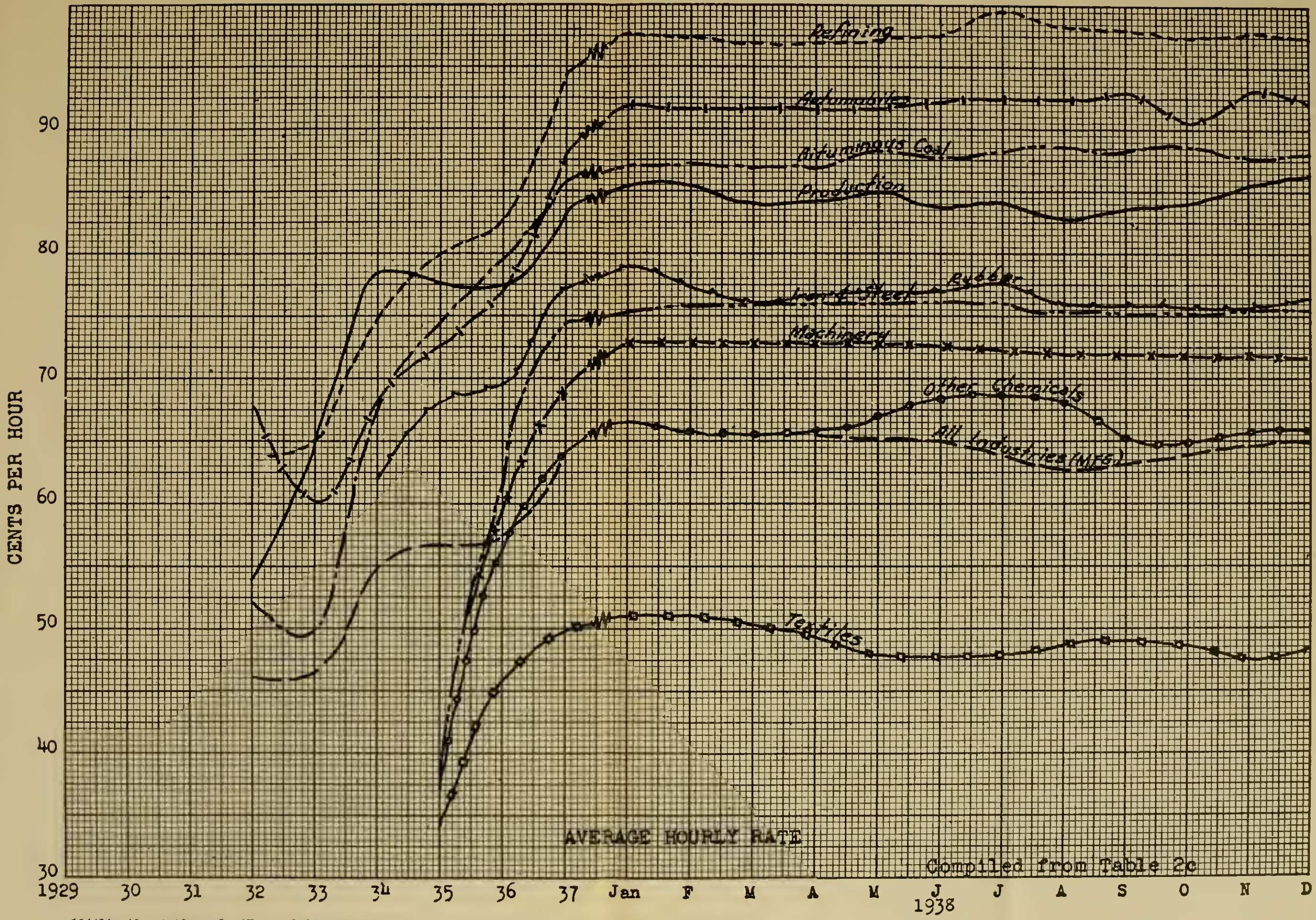
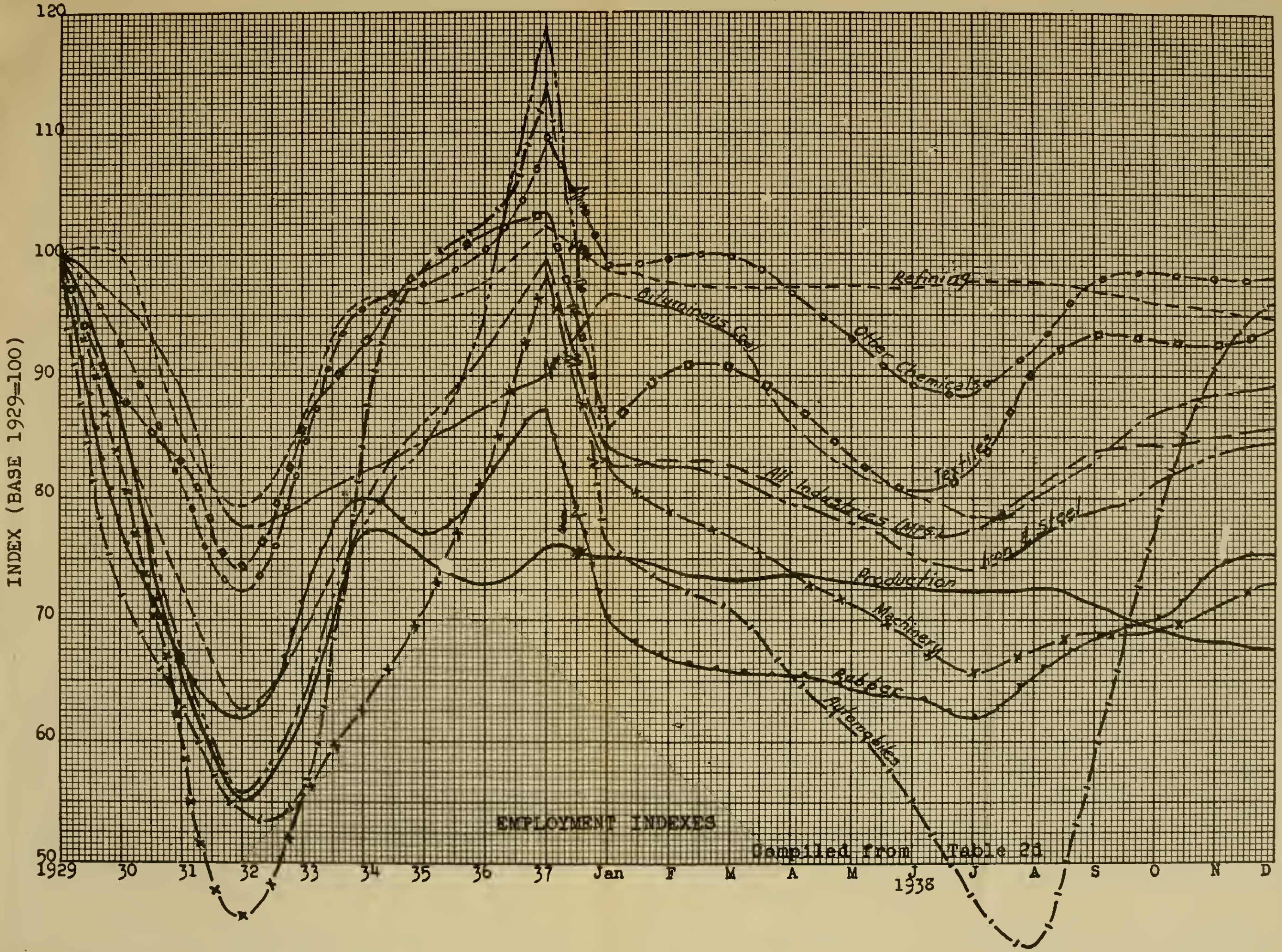

HOURS PER WEEK
40
35
30
25
20
Production
Other Chemicals
Refining
All Industries
Machinery
Textiles
Rubber
Iron & Steel
Automobiles
Bituminous Coal
AVERAGE HOURS PER WEEK
Compiled from Table 2b
1929
30
31
32
33
34
35
36
37
J
F
M
A
M
J
J
A
S
O
N
D
1938

CHART 2C


Refining
Automobiles
Bituminous Coal
Production
Iron & Steel
Rubber
Machinery
Other Chemicals
All Industries (MFG.)
Textiles
CENTS PER HOUR
90
80
70
60
50
40
30
1929
30
31
32
33
34
35
36
37
Jan
F
M
A
M
J
J
A
S
O
N
D
1938
AVERAGE HOURLY RATE
Compiled from Table 2c


INDEX (BASE 1929=100)
120
110
100
90
80
70
60
50
1929
30
31
32
33
34
35
36
37
Jan
F
M
A
M
J
J
A
S
O
N
D
1938
Refining
Bituminous Coal
Other Chemicals
Textiles
All Industries (Mfrs.)
Iron & Steel
Production
Machinery
Rubber
Automobiles
EMPLOYMENT INDEXES
Compiled from Table 2D

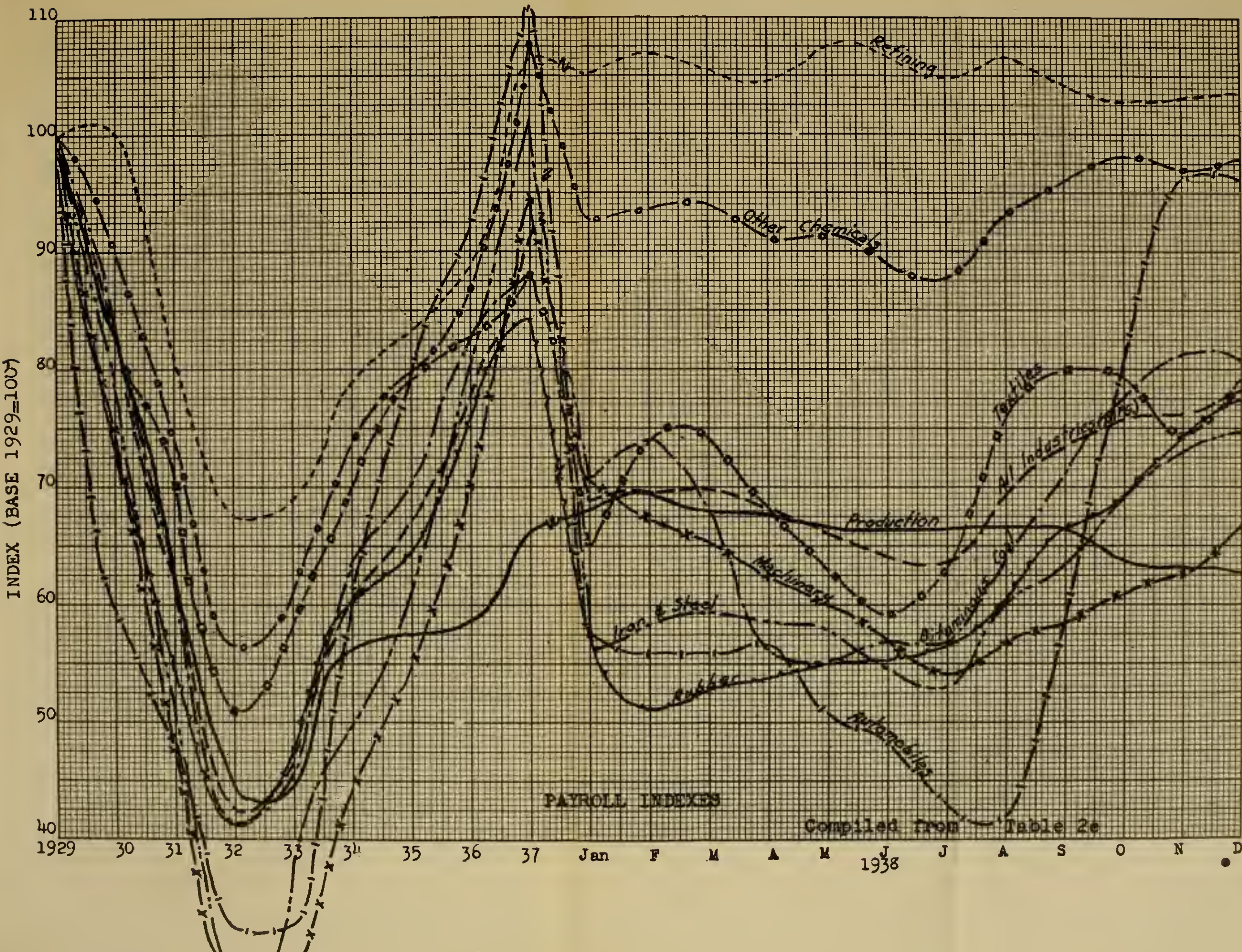
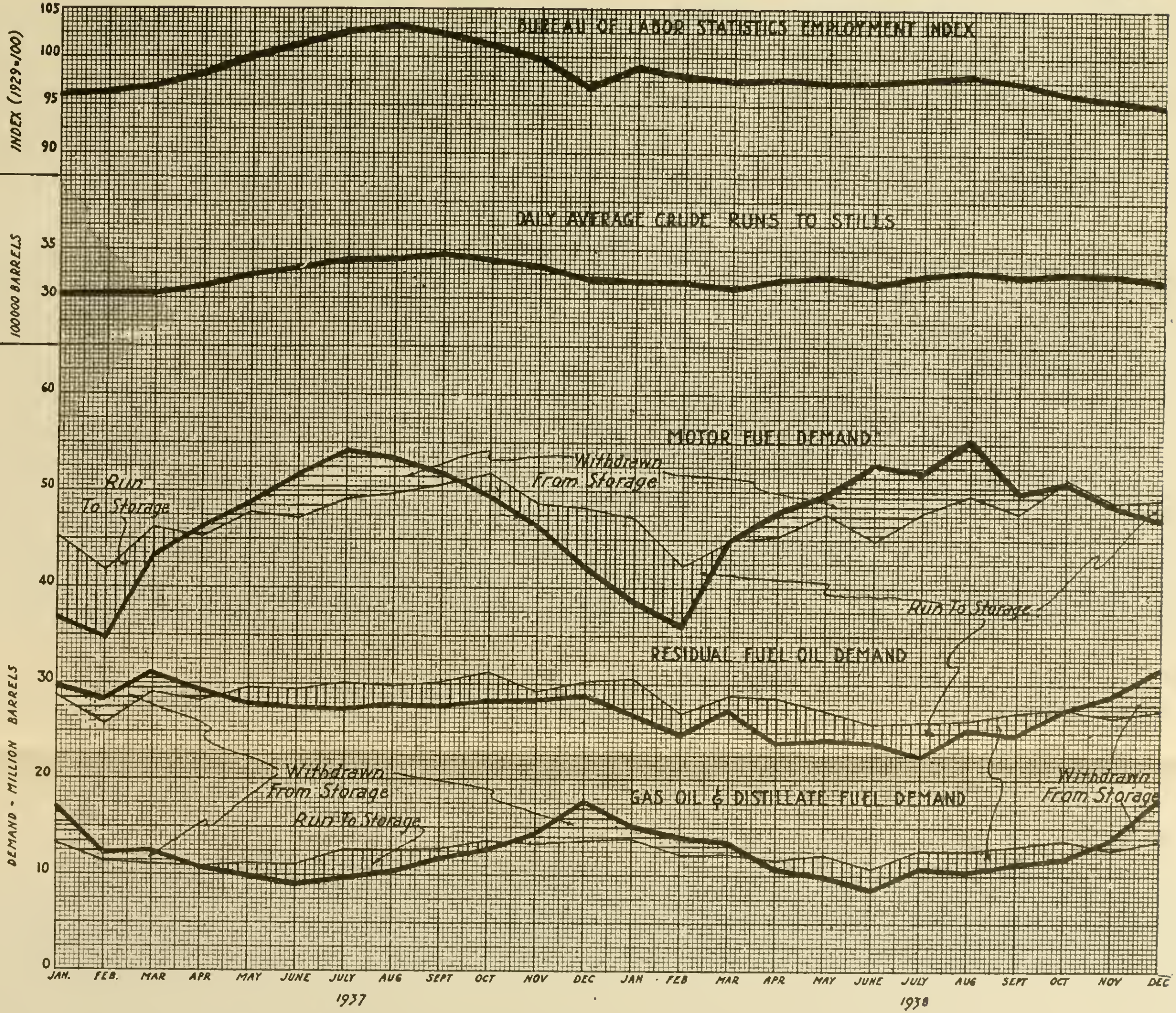

110
100
90
80
70
60
50
40
INDEX (BASE 1929=100)
1929
30
31
32
33
34
35
36
37
Jan
F
M
A
M
J
J
A
S
O
N
D
1938
Refining
Other Chemicals
Textiles
All Industries (Ex. Refining)
Production
Machinery
Iron & Steel
Bituminous Coal
Rubber
Automobiles
PAYROLL INDEXES
Compiled from Table 2e

CHART 2F


BUREAU OF LABOR STATISTICS EMPLOYMENT INDEX
INDEX (1929=100)
105
100
95
90
DAILY AVERAGE CRUDE RUNS TO STILLS
100000 BARRELS
35
30
MOTOR FUEL DEMAND
Run To Storage
Withdrawn From Storage
Run To Storage
RESIDUAL FUEL OIL DEMAND
GAS OIL & DISTILLATE FUEL DEMAND
Withdrawn From Storage
Run To Storage
Withdrawn From Storage
DEMAND - MILLION BARRELS
60
50
40
30
20
10
0
JAN. FEB. MAR APR MAY JUNE JULY AUG SEPT OCT NOV DEC JAN FEB MAR APR MAY JUNE JULY AUG SEPT OCT NOV DEC
1937
1938

EMPLOYMENT, PAY ROLLS, HOURS, HOURLY RATES, AND EARNINGS IN COMPARATIVE INDUSTRIES—MONTHLY DATA FOR YEAR 1938

CHART 20

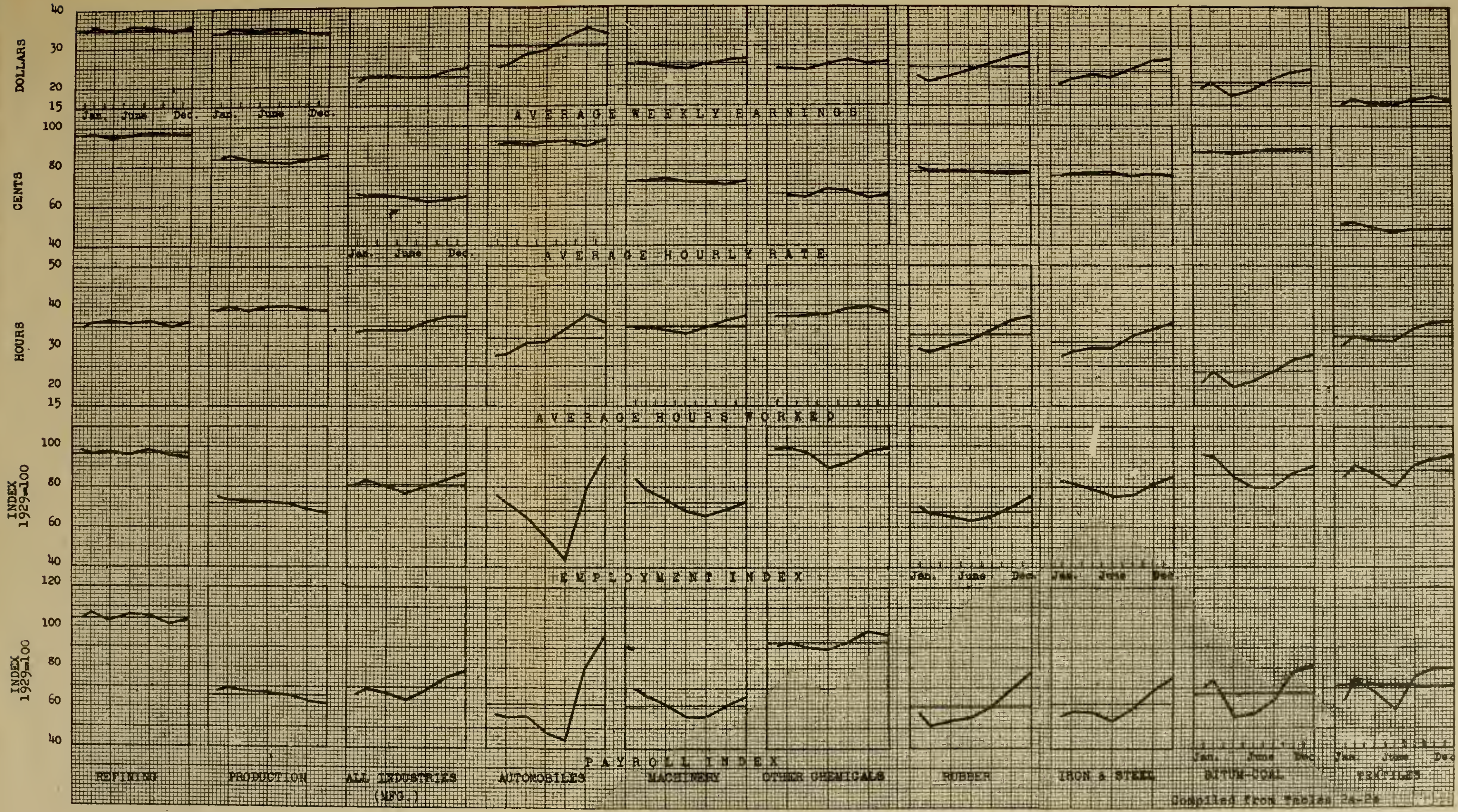


TABLE 4G.—SUMMARY FOR ALL CLASSES OF EMPLOYEES

Employee group	May 1929					May 1933					May 1934				
	Employees	Monthly pay roll	Hours per week	Weekly wage	Hourly rate	Employees	Monthly pay roll	Hours per week	Weekly wage	Hourly rate	Employees	Monthly pay roll	Hours per week	Weekly wage	Hourly rate
Office, Professional, Clerical, and Management Employees	50, 334	$9, 894, 482	43. 4	$45. 39	$1. 046	47, 120	$8, 455, 771	41. 3	$41. 44	$1. 003	51, 049	$9. 190, 056	39. 4	$41. 58	$1. 055
Exploration, Drilling, Production, and Natural Gasoline Employees	45, 106	7, 244, 479	57. 6	37. 09	. 643	23, 268	2, 745, 731	50. 1	27. 25	. 544	33, 777	4, 101, 101	36. 3	28. 04	. 772
Pipe Line Transportation Employees	14, 683	2, 060, 835	57. 2	32. 41	. 567	10, 124	1, 203, 937	49. 1	27. 46	. 559	12, 268	1, 461, 616	36. 1	27. 52	. 763
Refinery Employees	58, 153	8, 097, 790	49. 6	32. 16	. 649	40, 308	4, 523, 931	41. 2	25. 92	. 63	49, 023	5, 760, 033	35. 9	27. 14	. 756
Combined Totals of Exploration, Drilling, Production, and Natural Gasoline, Pipe Line Transportation, and Refinery Employees	117, 942	17, 403, 104	53. 6	34. 08	. 637	73, 700	8, 473, 599	45. 1	26. 55	589	95, 068	11, 322, 750	36. 1	27. 51	. 762
Retail Service Station Employees (Only)	19, 692	2, 521, 301	54. 9	29. 57	. 539	27, 680	2, 918, 421	53. 4	24. 35	. 456	37, 007	3, 835, 799	47. 9	23. 94	. 500
Marketing Employees (Excluding Retail Service Station)	48, 728	7, 668, 628	54. 1	36. 32	. 671	40, 650	5, 964, 266	51. 4	33. 86	. 659	47, 263	6, 510, 220	44. 2	31. 79	. 719
Marketing Employees (Including Retail Service Station Employees	68, 420	10, 189, 929	54. 3	34. 37	. 633	68, 330	8, 882, 687	52. 2	30. 00	. 575	84, 270	10, 346, 019	45. 8	28. 33	. 619

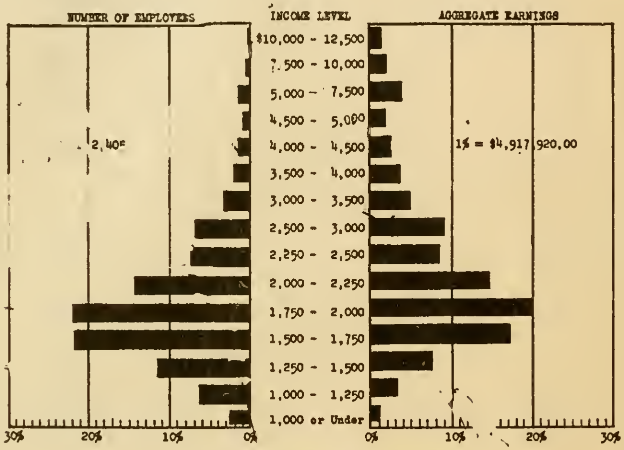
Employee group	May 1936					May 1938				
	Employees	Monthly pay roll	Hours per week	Weekly wage	Hourly rate	Employees	Monthly pay roll	Hours per week	Weekly wage	Hourly rate
Office, Professional, Clerical, and Management Employees	54, 065	$10, 306, 115	39. 6	$44. 02	$1. 112	58, 789	$12, 166, 927	39. 5	$47. 79	$1. 209
Exploration, Drilling, Production, and Natural Gasoline Employees	36, 524	4, 916, 633	37. 0	31. 09	. 84	38, 328	6, 007, 184	37. 2	36. 19	. 972
Pipe Line Transportation Employees	12, 412	1, 629, 716	36. 6	30. 32	. 828	11, 583	1, 799, 829	36. 8	35. 89	. 976
Refinery Employees	49, 827	6, 341, 619	36. 0	29. 39	. 816	50, 404	7, 744, 379	36. 1	35. 48	. 983
Combined Totals of Exploration, Drilling, Production, and Natural Gasoline, Pipe Line Transportation, and Refinery Employees	98, 763	12, 887, 968	36. 4	30. 14	. 828	100, 315	15, 551, 392	36. 6	35. 80	. 978
Retail Service Station Employees (Only)	17, 742	2, 022, 902	47. 8	26. 33	. 551	9, 627	1, 110, 357	47. 9	26. 64	. 556
Marketing Employees (Excluding Retail Service Station)	42, 271	6, 657, 483	42. 7	36. 35	. 851	42, 414	7, 235, 488	42. 7	39. 37	. 922
Marketing Employees (Including Retail Service Station Employees)	60, 013	8, 680, 385	44. 2	33. 38	. 755	52, 041	8, 345, 845	43. 7	37. 01	. 847

Sources: 1929–34 P. & C. Labor Sub-Committee. 1936–38 Am. Petr. Inst. Special Survey.

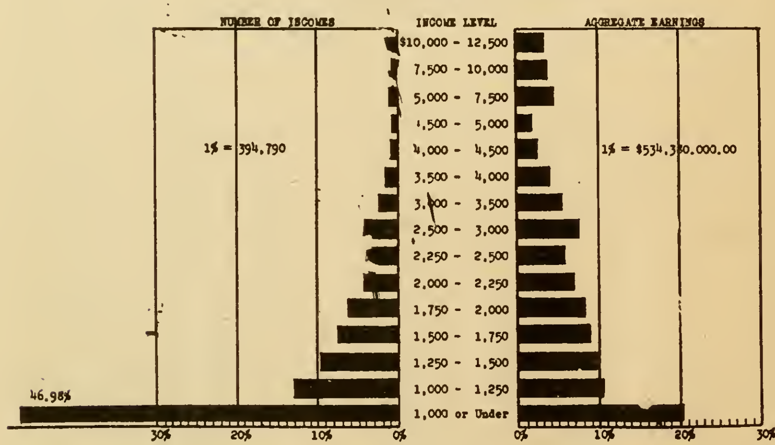
CHART 2H

SURVEY OF 18 MAJOR PETROLEUM COMPANIES DISTRIBUTION OF 1937 ANNUAL EARNINGS OF EMPLOYEES COMPARED TO REPORTED DISTRIBUTION OF NATIONAL INCOMES

THE PETROLEUM WORKERS' EARNINGS DIVIDE THIS WAY



THE NATION'S INCOMES DIVIDE THIS WAY



SPLITTING UP $59,258,628,000*

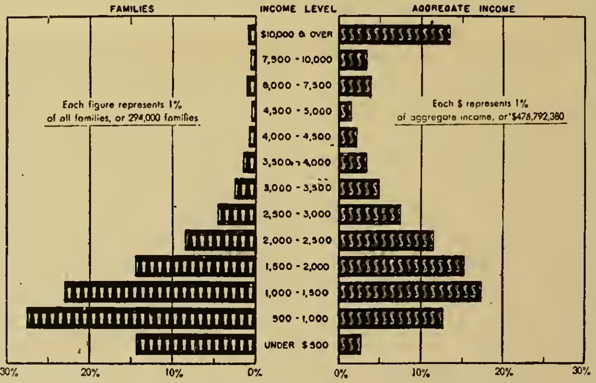
A Study of How 126,000,000 Persons Share the Nation's Income

(1) 29,400,300 FAMILIES AND 10,058,000 INDIVIDUALS SPLIT THE TOTAL THIS WAY—

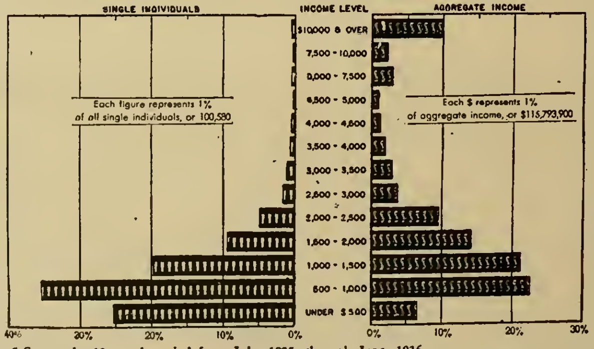
	Families and Single Individuals				Aggregate Income			
			Cumulative %				Cumulative %	
Income Levels	Number	%	Down	Up	Amount (in 000)	%	Down	Up
Under $250	2,123,534	5.38	5.38	100.00	$294,138	0.50	0.50	100.00
$250-$500	4,587,377	11.63	17.01	94.62	1,767,363	2.98	3.48	99.50
$500-$750	5,771,960	14.63	31.64	82.99	3,615,653	6.10	9.58	96.52
$750-$1,000	5,876,073	14.90	46.54	68.36	6,129,506	8.85	18.23	90.42
$1,000-$1,250	4,990,995	12.65	59.19	53.46	5,689,111	9.42	27.66	81.77
$1,250-$1,500	3,743,428	9.49	68.68	40.81	5,109,112	8.62	36.27	72.35
$1,500-$1,750	2,889,904	7.32	76.00	31.32	4,660,793	7.87	44.14	63.73
$1,750-$2,000	2,296,022	6.83	81.82	24.00	4,214,203	7.11	51.25	55.86
$2,000-$2,250	1,704,535	4.32	86.14	18.18	3,602,861	6.08	57.33	48.75
$2,250-$2,500	1,254,076	3.18	89.32	13.86	2,968,932	6.01	62.34	42.67
$2,500-$3,000	1,475,474	3.74	93.06	10.68	4,004,774	6.76	69.10	37.66
$3,000-$3,500	851,919	2.16	95.22	6.94	2,735,487	4.63	73.72	30.90
$3,500-$4,000	502,159	1.27	96.49	4.78	1,863,384	3.14	76.86	26.28
$4,000-$4,500	286,053	.72	97.21	3.51	1,202,826	2.03	78.89	23.14
$4,500-$5,000	178,138	.45	97.66	2.79	841,766	1.42	80.31	21.11
$5,000-$7,500	380,266	.96	98.62	2.34	2,244,406	3.79	84.10	19.69
$7,500-$10,000	216,842	.56	99.17	1.38	1,847,820	3.12	87.22	15.90
$10,000-$15,000	152,682	.39	99.56	.83	1,746,926	2.96	90.17	12.78
$15,000-$20,000	67,923	.17	99.73	.44	1,174,574	1.98	92.15	9.83
$20,000-$25,000	39,825	.10	99.83	.27	889,114	1.60	93.65	7.85
$25,000-$30,000	25,683	.06	99.89	.17	720,268	1.22	94.87	6.35
$30,000-$40,000	17,969	.05	99.94	.11	641,272	1.08	95.95	5.13
$40,000-$50,000	8,340	.02	99.96	.06	390,311	.66	96.61	4.05
$50,000-$100,000	13,041	.03	99.99	.04	908,485	1.53	98.14	3.39
$100,000-$250,000	4,144	.01	100.00	.01	539,006	.91	99.05	1.86
$250,000-$500,000	916	†	....	†	264,498	.45	99.50	.95
$500,000-$1,000,000	240	†	....	†	134,803	.23	99.73	.50
Over $1,000,000	87	†	....	†	157,237	.27	100.00	.27

† Less than 0.005%

(2) THE FAMILIES DIVIDE $47,679,238,000 THIS WAY—



(3) SINGLE INDIVIDUALS DIVIDE $11,579,390,000 THIS WAY—



* Covers the 12-month period from July, 1935, through June, 1936.

Data: National Resources Committee

Business Week


30%
20%
10%
0%
20%
30%

Exhibit No. 1258

[Submitted by H. H. Anderson]

HISTORICAL TRENDS

1

HOURS WORKED PER WEEK, WEEKLY EARNINGS AND UNIT LABOR COST IN PETROLEUM INDUSTRY FOR FIVE-YEAR INTERVALS. 1914-1938.

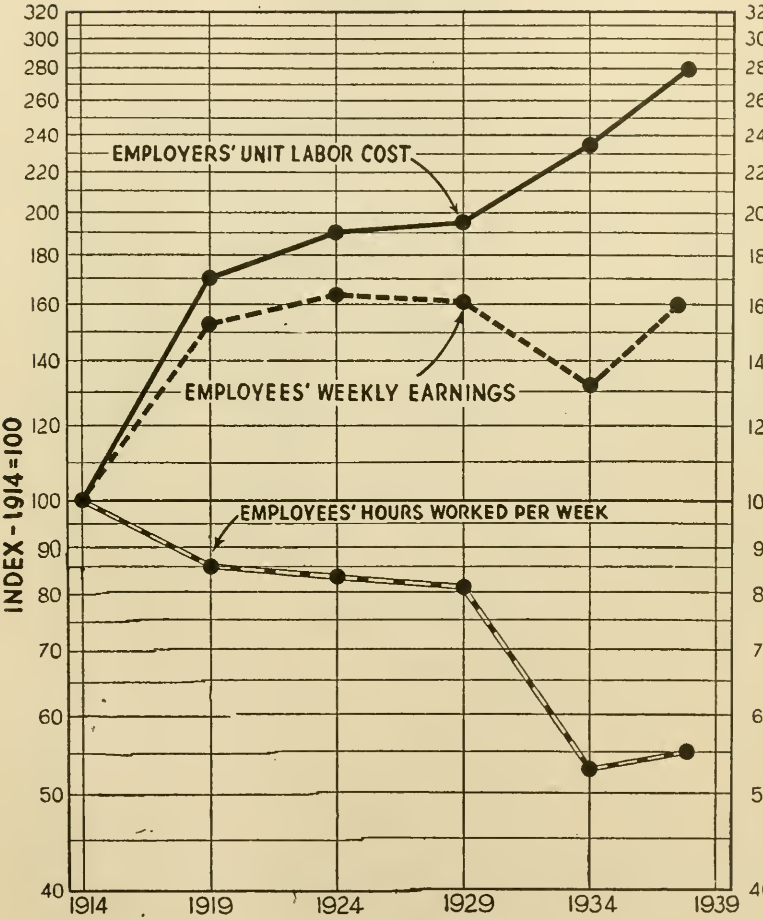


Exhibit No. 1259

[Submitted by H. H. Anderson]

RECENT TRENDS 2

WAGE, HOURS AND PURCHASING POWER
WAGE EARNERS OF LARGER PETROLEUM COMPANIES
1929 - 1938
(MAY OF EACH YEAR)

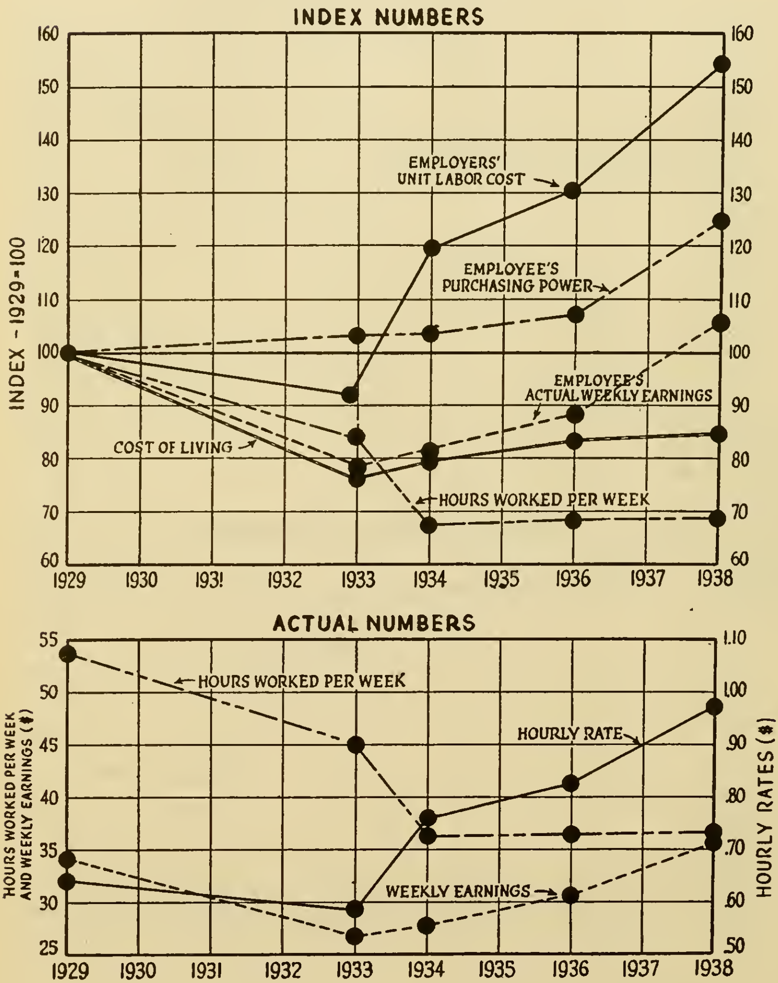


EXHIBIT No. 1260

[Submitted by H. H. Anderson]

INTER-INDUSTRY COMPARISON OF WORKING CONDITIONS 3

PETROLEUM," ALL MANUFACTURING" AND SELECTED LARGE INDUSTRIES

1938

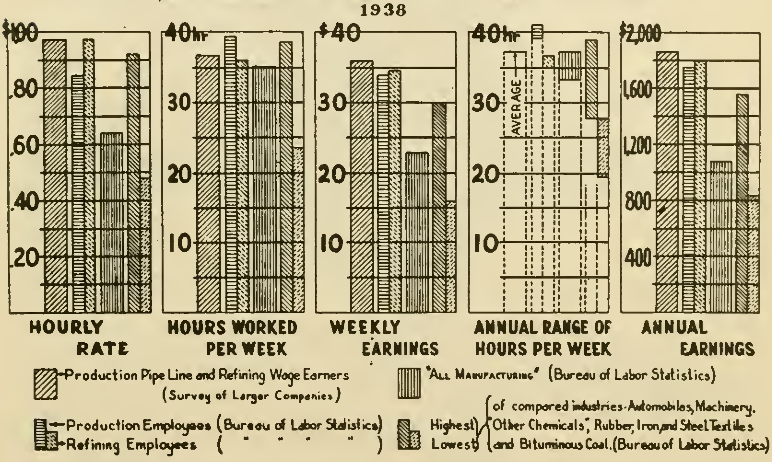


EXHIBIT No. 1261

[Submitted by H. H. Anderson]

4

HOW WE LEVEL EMPLOYMENT

EMPLOYMENT INDEX, CRUDE RUNS TO STILLS, GASOLINE AND FUEL OIL DEMAND
MONTHLY DATA FOR YEAR 1938

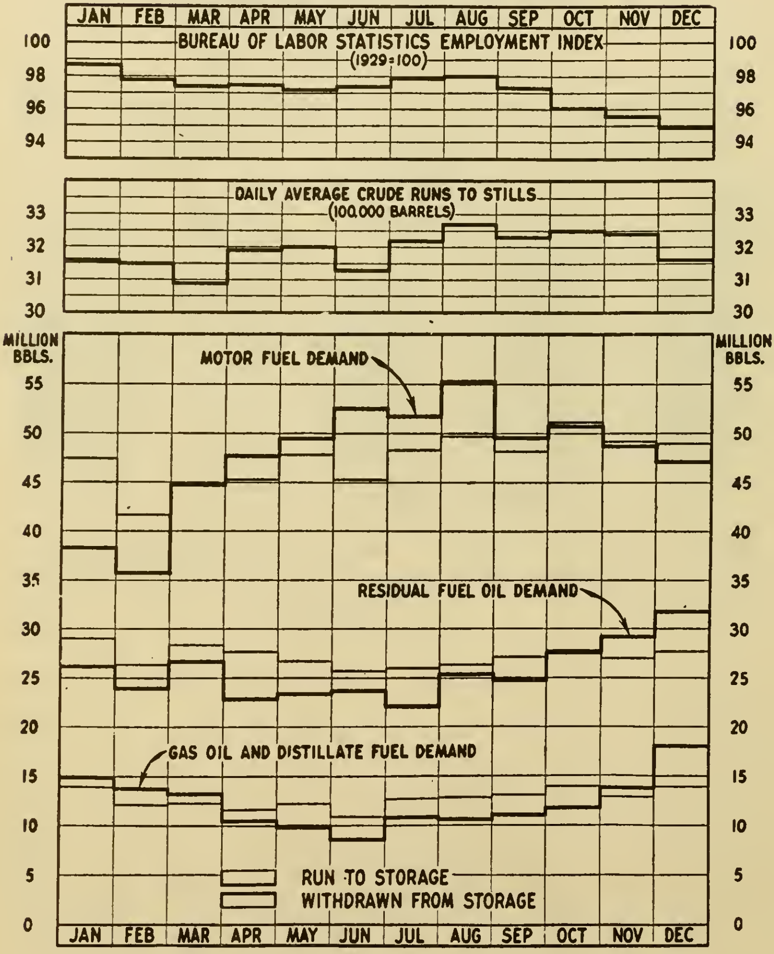


EXHIBIT No. 1262

[Submitted by H. H. Anderson]

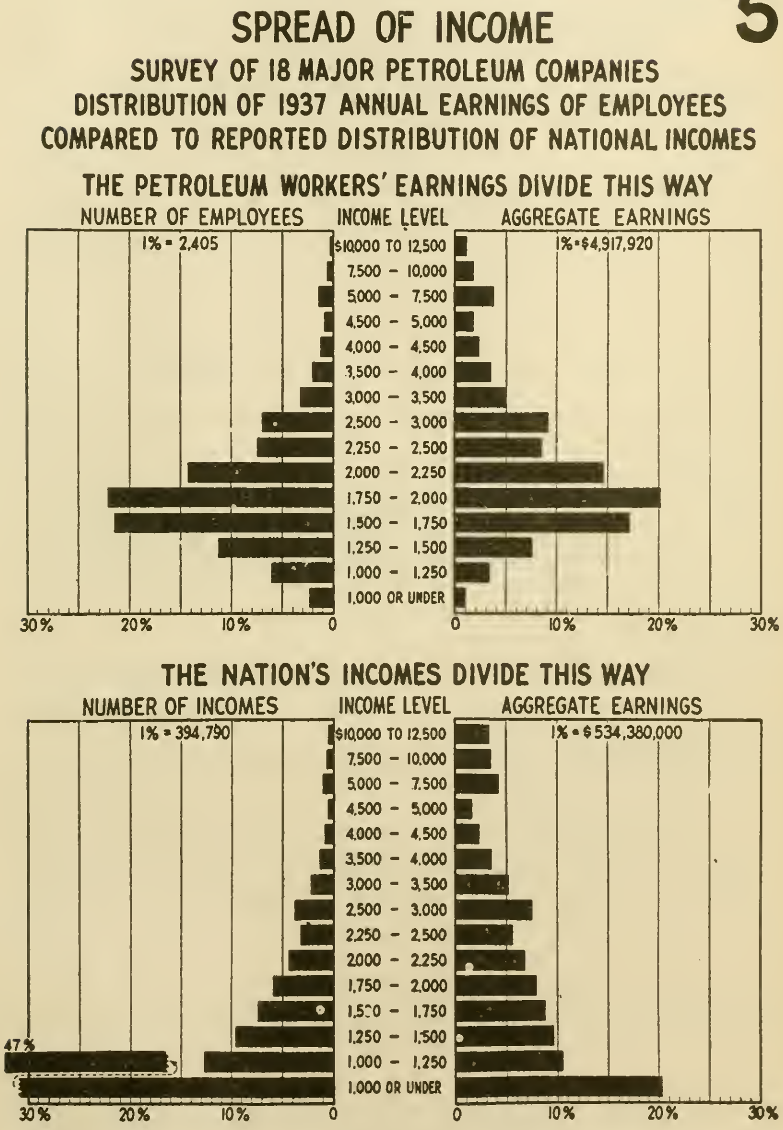
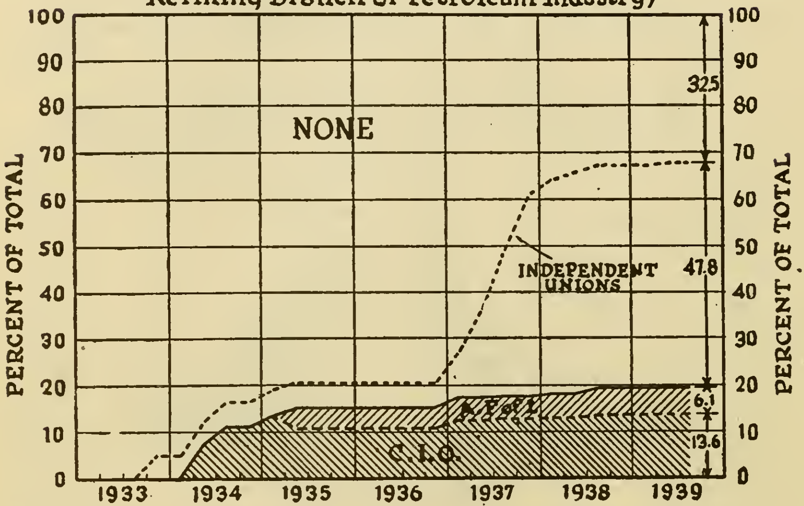


EXHIBIT No. 1263

[Submitted by H. H. Anderson]

UNIONIZATION IN REFINERIES OF LARGER OIL COMPANIES

Survey Covers 66,657 Wage-Earners in 128 Refineries (about 80 percent of all Wage-Earners in Refining Branch of Petroleum Industry)



NOTES:

1. Based on May, 1938 employment, each Union is credited with 100 percent coverage in every refinery where a formal agreement is generally in force.

2. Oil Workers International Union is classed as C.I.O. although originally in A.F. of L.

3. Although formal agreements are not in force, employers recognize C.I.O. as bargaining agents for 6.1 percent and Independent Unions for 3.3 percent more employees than are shown in chart.

EXHIBIT No. 1264

[Submitted by H. H. Anderson]

Inter-branch wages and hours comparisons—refining, production and pipe line wage-earners of larger oil companies

Month of May	Weekly earnings			Hourly rates			Hours per week		
	Refy.	Prod.	P. L.	Refy.	Prod.	P. L.	Refy.	Prod.	P. L.
1933	$25.92	$27.25	$27.46	$0.630	$0.544	$0.559	41.2	50.1	49.1
1934	27.14	28.04	27.52	.756	.772	.736	35.9	36.3	36.1
1936	29.39	31.09	30.32	.816	.840	.828	36.0	37.0	36.6
1938	35.48	36.19	35.89	.983	.972	.976	36.8	37.2	36.8

EXHIBIT NO. 1265

STATEMENT PREPARED FOR THE TEMPORARY NATIONAL ECONOMIC COMMITTEE BY A. W. HEWETT, PRESIDENT, AND L. A. HARTLEY, SECRETARY, PETROLEUM RETAILERS ASSOCIATION, KANSAS CITY, MISSOURI

1—The voting membership of this Association is exclusively composed of bona fide filling station operators. Contributions are neither solicited nor received from others than members of this association. More than 95 percent of the members of this association retail products produced and distributed by major oil companies.

2—Eleven major oil companies now operating in the Greater Kansas City area are as follows: Standard of Indiana, Socony-Vacuum, Sinclair, Cities Service, Shell, Continental, Mid-Continent, Phillips, Skelly, National Refining, and Texaco. These companies distribute their products in this area through brokers, jobbers, and directly through their own marketing divisions.

3—Products of these eleven major oil companies are sold to the public through three kinds of outlets: (a) Filling stations directly owned or controlled by these major oil companies. (b) Filling stations, garages or other retail outlets, the real estate being owned by others than these major oil companies. (c) Business and industrial firms who sell to employees and the public generally.

4—A large majority of the filling stations of this area are in the 3 (a) classification, being directly owned or controlled through real estate leases by these eleven major oil companies.

5—Almost all of these 3 (a) company-owned or controlled filling stations are subleased to filling stations operators, who are prevented from purchasing gasoline from other than their oil company lessors. These lessee-operators cannot buy on the open market.

6—Filling stations, garages and other retail outlets in the 3 (b) classification can purchase gasoline and other supplies on the open market, from independent or major oil company suppliers. This is true, also, of the 3 (c) classification.

7—These eleven major oil companies maintain identical tankwagon prices to filling stations they serve directly through their marketing divisions. Standard of Indiana almost always leads in announcing changes of prices of gasoline to filling stations served by Standard oil tankwagons. The other ten major oil companies follow with identical tankwagon prices to their filling stations within a few hours. In most cases these tankwagon price changes are simultaneous.

8—The large majority of filling stations in this area (see 3 (a) above) operated by lessees, who must purchase gasoline from their major oil company lessors, as noted in paragraph 5, must pay whatever prices these major oil companies charge and these prices are subject to change without notice. These 3 (a) filling station operators cannot bargain at the sources of supply. Their wholesale prices are fixed by their major oil company lessors.

9—These 3 (a) filling station operators are in direct competition with gasoline retailers in 3 (b) and 3 (c) classifications. With the exception of the comparatively small gallonage supplied to 3 (b) and 3 (c) gasoline outlets by genuine independent producers and refiners, competition is with identical products supplied to all three classifications of filling stations by the eleven major oil companies. Examples: Standard Oil of Indiana serves identical products to all three types of outlets; Socony-Vacuum and other major oil companies likewise serve their identical products to their outlets in 3 (a), 3 (b) and 3 (c).

10—As a result of ability of 3 (b) and 3 (c) outlets to bargain at sources of supply and choose suppliers, 3 (b) and 3 (c) gasoline retailers usually have a lower wholesale price than the large majority of filling stations in classification 3 (a), whose tankwagon prices are controlled by major oil company lessors. This advantage in purchasing price of comparable products has a wide range according to the bargaining power and volume of sales. Frequently in the Kansas City area, instances have been found where 3 (b) and 3 (c) outlets sell gasoline of identical quality, under identical nationally advertised insignia for less than 3 (a) filling stations can purchase these same products from these same major oil companies.

11—Obviously when 3 (b) and 3 (c) gasoline outlets can sell profitably to the general public, for less than 3 (a) filling station operators can buy the same nationally advertised goods, fair competition does not exist.

12—During the past year the above named major oil companies, through their salesmen, representatives and officials, announced their determination to reduce the retail prices of gasoline in the Kansas City area. Through rent reductions to 3 (a) station operators, with promises of other favors and, fear of unemploy-

ment, many 3 (a) filling station operators were prevailed upon to reduce retail prices. These reductions were made without benefit of tankwagon price reductions. In a large majority of cases, rent reductions and other favors did not recompense filling station operators for losses in income.

13—This campaign, to drive down retail prices of major oil company gasoline, brought on a gasoline price war. These major oil companies openly encouraged this price war. As a result, there has been gradual reduction of income for all 3 (a) and most 3 (b) gasoline retailers with the 3 (a) operators bearing the brunt of income reductions.

14—Although it has been established that costs of filling station operation in the Kansas City area require not less than 4½¢ margin of gross profit for each gallon of gasoline sold, in order to pay living wages and maintain fair working conditions, many 3 (a) stations are now operating on a 2½¢ margin of gross profit and some are selling gasoline at as low as ½¢ gross profit per gallon.

15—As a result of this forced reduction of gross income for filling stations, in the Kansas City area, hundreds of gasoline retailers have lost their life savings and have been forced out of business and into the ranks of the unemployed. In the face of this obvious condition, these major oil companies have continued to use their influence to further reduce the retail price of gasoline at the expense of filling station operators and employees. Those operators who have managed to stay in the business have been compelled to reduce wages, increase hours of labor and lower working conditions.

16—Hours of labor range upward as high as 400 hours a month. The 12 hour day is common for the filling station business in the Kansas City area. One dollar a day is not uncommon among filling station employees, and conditions are rapidly becoming worse.

17—This situation has become so tense that this Association has been compelled to exert influence to prevent violence. The Association deserves credit for a remarkable record for non-violence in the Kansas City filling station industry during the time when bombings and window smashings were common in many other Kansas City industries.

18—In the face of increasing stocks of gasoline, these major oil companies have raised their tankwagon prices to these filling stations while continuing to beat down retail prices at the expense of operator's incomes and employee's wages. March 14, 1939, the American Petroleum Institute reported that gasoline stocks had risen the previous week from 85,379,000 to 85,966,000 barrels, a gain of 7/10 of one per cent. The same report showed that 85% of the refineries had decreased operations 5/10 of one per cent. Such perfect control would be a remarkable accident, but the fact remains that this report shows a net gain of 7/10 of one per cent in gasoline stocks for that week. That same day, March 14, 1939, Standard Oil of Indiana announced an increase of ½¢ per gallon in its tankwagon prices. Every other major oil company in Kansas City announced the same increase the same day. This increase was enforced to all 3 (a) stations and to many 3 (b) stations.

19—Through leases of their filling stations, these major oil companies have evaded responsibilities for social security tax payments and avoided responsibilities of the Wagner, Robinson-Patman, and Sherman Acts. They have also avoided chain store taxes where these are assessed. These major oil companies have shifted the burdens of taxes and station costs to these lessees and then proceeded to hammer down the operator's income and the wages of his employees in order to destroy independent competition.

20—This Association believes that wholesale prices of gasoline are too high. We do not ask for a fair practice code with which to fix retail prices higher to the public. We believe that these major oil companies should be compelled either to operate their own filling stations, subject to Wagner Act influences and Fair Labor Standards awards, or treat these leases as bona-fide real estate leases. We believe that the slightest interference with station management by these lessor-suppliers should be cause for return to employment status of lessee-operators.

21—It is claimed that the present arrangement, which enables major oil company lessors to fix tankwagon prices to filling station operators, and permits these same major oil company lessors to fix retail prices, has the effect of placing the majority of filling station operators in a planned economy. Whatever income these lessee-operators receive is as definitely controlled by their lessor-suppliers as though this income were undebatable wages. We assume that the opportunity to debate wages is accepted as a right of American workers. This right is denied to these lessee-operators.

22—Instead of a fair practice code, designed to fix retail prices, which would ultimately increase costs to the consumer, we favor a congressional investigation of income and costs of oil company operation with a view to setting a reasonable

return on investment. It is our sincere belief that if every factor in major oil company income were pooled and every factor of expense were subtracted, the net profit to these major oil companies would justify reduction in gasoline prices.

23—Such a congressional investigation would probably consume months and possibly years. Human conditions in the filling station industry cannot wait for such action. Enforcement of federal anti-trust laws will not help these lessee-operators. This lessee-operator and filling station employee condition is essentially a labor siituaton. In our opinion, these leases are mere subterfuges to avoid responsibilities and these leases should be treated as such. The government should protect these lessees and their employees by forcing the major oil companies to assume these responsibilities as bona-fide employers. At the same time the government should protect the consumers from having to pay the social security taxes and fair wage bills, which will surely be shifted to the consumer if the major oil companies should merely be compelled to directly operate these stations.

24—Many recommendations are being made to relieve conditions confronting various elements within the petroleum industry. Divorcement of pipelines from production and marketing would benefit certain elements and might benefit consumers. But the dismembered oil monopoly marketing division will still exert the same dehumanizing effect upon filling station operators and their employees. The dismembered monopoly will result in one more monopoly as there are severances. We propose immediate action to correct a condition in the filling station business, daily becoming more difficult.

25—If the Internal Revenue Bureau should identify filling station employees in such manner as to recognize oil company control of station management as evidence of employee status, the whole filling station problem would resolve itself. Oil companies would not interfere with station management unless they were willing to pay social security taxes. Another way to improve filling station wages would be to require filling station leases by oil companies to include minimum guarantees of station income sufficient to assure fixing wages to the lessee operator and his employees. *But this should not be done at the expense of the consumer.* Consumer interest should be guarded and this leads in the direction of some kind of federal control of major oil company profits. If a committee should be organized to recommend methods for studying how to improve conditions among filling station operators and their employees *without increasing prices to consumers*, we shall be happy to share in such an activity.

EXHIBIT No. 1266

[Original document submitted by Petroleum Retailers Association]

ASSOCIATION PRICE FIXING*

National Association of Petroleum Retailers, Ways and Means Committee, 251 Republican Hotel, Milwaukee, Wisconsin

BULLETIN WM-1. RAISING THE PRICE

DO'S AND DON'T'S

Raising the price of gasoline as a means of obtaining an increase in the gross margin is receiving increasing attention of dealer associations as the retirement of the suppliers from the retail field spreads, accompanied by a posting of wholesale prices only by the suppliers, placing the setting and maintenance of retail prices upon the retailers.

This new responsibility of the retailers can be either beneficial or detrimental, according to the way in which it is handled, and this bulletin is issued as service in order that local associations may avoid many of the mistakes that are certain to follow misguided effort at bettering themselves.

THINGS NOT TO DO

DON'T: (1) Antagonize anyone needlessly in your effort at normalization.

DON'T: (2) Think that the economics and experience of the past can be safely disregarded and that you are establishing an entirely new market set-up with new rules of your own making.

* Pencil notation by L. A. Hartley, secretary, Petroleum Retailers Association.

Don't: (3) Enter upon an advertising campaign in connection with the advance, or give the advance any publicity, or blame it onto others.

Don't: (4) Attempt a price raise until you have secret discounting under control.

Don't: (5) Attempt a price raise until you have made sure it will not result in a wider differential between you and the cut-rate and track-side.

Don't: (6) Attempt a price raise until you have a sufficient following among the retailers to insure it being general.

Don't: (7) Raise the price until you have advised suppliers of your honest purposes.

Don't: (8) Raise the price too high in one jump in an effort to bring an immediate recovery.

Don't: (9) Raise the price without due consideration of the market status in adjacent territories.

Don't: (10) Get radical, go crazy with imagined power and authority, or let greed wreck your opportunity to recover your cost, pay decent wages and add a reasonable profit.

THINGS TO DO

(1) Harmony among your own retailers, other retailers, chain retailers, wholesalers and other suppliers must be preserved to the fullest extent possible.

(2) Trouble with anyone, either verbally or physically, must be avoided to the fullest extent and there must be no violence even in the face of violence as it will lead to injunctions and defeat.

(3) Strong and wise leadership must be selected and followed, staunchly and loyally.

(4) Organization work among *your own group* is the *first step* in market normalization.

(5) It must be shown that any rebating or discounting, secret or open, will result in the destruction of the work being attempted and probably will culminate in a guerilla price-war that will ruin all retailers.

(6) It must be shown that the so-called margin is really a gross margin from which the operating expenses must be deducted before there is any profit.

(7) Make the retailers "*cost conscious*" as a necessary step in the elimination of rebating, the cost involved being the overhead to be charged against each gallon of gasoline.

(8) Perfect the organization by individual calls or a mass meeting at which the proposal can be discussed.

(9) Bring the cut-rates of all categories and track-sides into line before the increase, if possible, by showing them that you are trying to better marketing generally and to eliminate discounts; determine the differential, if any, that will be allowed and insist on the elimination of "*come-on*" signs; use tact and diplomacy and a strong determination.

(10) Call on wholesalers and large suppliers, explain your purpose and program and request their advice and cooperation in making the new normal price effective throughout the territory; use all the tact you have, realizing that the suppliers may be placed in a difficult position and that they cannot agree with you to increase the price; show them that you are merely asking that they do not act destructively in regard to your program, remembering that most of these suppliers have had years of experience in marketing and it is only smart to take advantage of their counsel.

(11) Only after you have done all the above things are you ready to consider the actual increasing of the price. Some of them may not be completed to your satisfaction, especially the cut-rate and track-side arrangement, but if you have done all you can and have exhausted every resource you are ready to proceed.

(12) Understand what you are doing and how it must be done, looking into every phase of the economics underlying the situation and anticipating the reaction from your move.

(13) In determining the advance to be made, realize that a small advance to a *new normal cost-recovery price will not be noticed by the public*, will not be detrimental if all do not go up at once and will not divert gallonage to surrounding territories, then keep the advance within a quarter or three-tenths of a cent, knowing that you can make another advance later when others have followed your lead.

(14) By this time you should be in the position to select your "*market leader*" who has the courage and those qualities of leadership that others recognize and will follow. After he is selected, give him your whole-hearted support.

(15) Remember to not agree upon a price, but each individual has the right to determine what he wants to do and to announce it, thus avoiding any conspiracy.

Your "*market leader*" can set a price and the organization can send out a notice that blank's service station is posting a retail price of 17.6–18.6 and 20.6 at 7:00 a. m., day and date.

(16) Then the real test of your previous work shall come in whether or not the others follow. If *you* have done *your* work well, there should be little trouble, making it a simple matter to go to those out of line and getting their cooperation.

(17) If you have to use the blockade method, be sure that it is friendly and peaceful, so as to prevent injunctions for disturbing the peace or disorderly conduct or assault, conducting yourselves as customers who are making small purchases and utilizing the free services which the station offers to the public, and block the driveways for a short time only—but during the busiest part of the day.

(18) If the blockade is used as a means of bringing the price-cutters to reason, withhold the blockade during any negotiations that follow and remember to be firm and fair in your demands.

If you follow the procedure above, observing the pitfalls outlined and doing the necessary work of organization, negotiation and consultation, avoiding dissention and violent methods, keep out of the papers, using wisdom and care, you have every chance of success.

Do not expect too much of the suppliers or expect them to follow your increase immediately as they have their problems and difficulties in a situation of this kind. Establish their confidence in your leaders and you will find your path easier. *Try to understand* their position and you will get *better results.*

Heroics, ballyhoo and soap-box oratory may make a hit with the boys, but they make the path to recovery of profit just that much harder. Be firm—know what you want to do and how you want to do it—do not be deflected from your course—but be always just, honest and sincere.

Wishing you every success, we are

Yours sincerely,

NATIONAL ASSOCIATION OF PETROLEUM RETAILERS,
WAYS AND MEANS COMMITTEE,

FRED L. BREWER, *Chairman*
W. M. BOUTIN,
M. E. HOLLAND.

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$4.50 For 300 Copies.
$6.00 For 500 Copies.

P. S.—Speakers who are nationally known leaders among the retailers and know their subjects are available provided associations desiring them will pay their expenses. These men will be worth much more than the cost to any local association. Expenses include: Railroad fare, meals and lodging, payable to this office in advance. (Please make check payable to the National Association of Petroleum Retailers, address above).

EXHIBIT No. 1267

[Copy of original letter from files of Department of Justice]

PETROLEUM RETAILERS ASSOCIATION

An organization of Dealers selling petroleum products and correlated merchandise and services at retail in greater Kansas City, Western Missouri, and Eastern Kansas

Telephone—Victor 3032

340 RAILWAY EXCHANGE BLDG.,
Kansas City, Missouri, January 23, 1939.

THURMAN ARNOLD,
Assistant Attorney General, Department of Justice,
Washington, D. C.

DEAR MR. ARNOLD: Wilmer R. Schuh, President of the National Association of Petroleum Retailers, delivered an ultimatum to officers of the Kansas City

Association Thursday, January 19, 1939. He threatened to revoke our charter and organize a rival local association. He reminded us of his success in organizing such a rival local in Philadelphia when A. A. Fish failed to conform. He reminded us of close contacts with major oil companies assuring him of their support in carrying out his threat. He gave us about "two weeks to decide." We recognize the gravity of his threat if we fail to observe the conditions he has imposed. We believe also that we are being threatened because we have aided the government in investigations and stand ready to appear before the Senate Monopoly Committee.

Mr. Schuh's conditions to avoid destruction, resulting from organization of a rival local association with major oil company support, would require us to (1) cease opposition to major oil company marketing methods, (2) cease publicizing major oil companies as monopolistic, (3) cease offers to appear before the Senate Monopoly Committee, (4) cease offers of legal aid to members who feel themselves unfairly dealt with by major oil companies, (5) cease giving voluntary information to the Department of Justice and Federal Trade Commission involving major oil companies, (6) recognize government indictments at Madison as the cause of present wide-spread demoralization of the retail gasoline market and, (7) observe a certain formula for fixing (upward or downward) retail prices of gasoline to be sold by members of the Kansas City Association. Mr. Schuh announced that N. A. P. R. had devised this formula. Since it is concerned only with factors between the carload trackside price and the retail price its advocacy would require us to cease claiming that major oil company integrated profits are too high. Mr. Schuh asserted that recent conversations with major oil company officials (L. L. Marcell of White Eagle being specifically named by Mr. Schuh) had convinced him that the Secretary of the Kansas City Association is in disfavor with major oil company officials. Mr. Schuh stated that the conditions he laid down were identical with demands of major oil companies.

We also certify:

A Question asked Mr. Schuh by Mr. Leonard Johnson: What could we do now since we have already filed a complaint with the Justice Department?

Answer by Mr. Schuh: You could refuse to give them any assistance or cooperation and let them conduct any investigation without your help.

Another question asked Mr. Schuh by Mr. Johnson: How shall we go about to accomplish this retail price fixing legally?

Answer by Mr. Schuh: One member from each brand would have to contact the manager of his supplying company individually as they would not meet and decide on this in a group.

He further stated that if we consented to take a 4¢ over-all spread our suppliers would drop wholesale to 1¢ above car-load track-side price.

Following are signatures of witnesses to the above threats and conditions. We have read the above report and certify to its accuracy:

(Signed) LEONARD JOHNSON.
(Signed) OTHO L. DILL.
(Signed) JACK MADDIGAN.[1]
(Signed) ED. O'LAUGHLIN,
Treasurer.
(Signed) A. W. HEWETT,
President.

Very truly yours,

(Signed) L. A. HARTLEY,
Executive Secretary, Petroleum Retailers Association of Greater Kansas City.

[1] Signed Jack Madigan.

EXHIBIT No. 1268

J. C. DENTON, *Vice-President.*

MID-CONTINENT PETROLEUM CORPORATION

GENERAL OFFICES TULSA, OKLA.

OCTOBER 11, 1939.

AIR MAIL

Mr. JAMES R. BRACKETT.
Executive Secretary, Temporary National Economic Committee,
Washington, D. C.

DEAR SIR: This will acknowledge receipt of your telegram of the 10th instant, asking us to furnish you with an authenticated copy of letter dated November 12, 1936, from H. W. Roe to Messrs. Gutsch and Bogan, File 190 General.

We have made a search of our files and do not find such a letter as you refer to dated *November* 12, 1936, but do have in our files a letter dated *December* 12, 1936, the paragraphs of which seem to correspond to the letter in your possession, and we presume that the date of the letter mentioned in your telegram, November 12, 1936, is an error.

We have made a copy of the letter in our files, dated December 12, 1936, which was written by Mr. L. W. Witte, assistant to Mr. Roe, but which was signed by H. W. Roe, and have had the same authenticated by Mr. Roe and are enclosing the same, in duplicate, pursuant to the request contained in your wire.

With reference to this communication, and having in mind the contents of the last paragraph thereof, I beg to advise that my investigation discloses the communication was written by Mr. Roe's assistant, L. W. Witte, and was signed by Mr. Roe, who is head of our Traffic Department, without consulting the Legal Department or any of the members thereof.

Yours very truly,

J. C. DENTON, *Vice President.*

JCD:MO

[Copy]

DECEMBER 12, 1936.
File 190—General.

Mr. J. C. GUTSCH,
A. F. T. M., C. R. I. & P. Railway Company, Chicago, Illinois.
Mr. A. R. BOGAN,
A. G. F. A., Missouri Pacific Lines, St. Louis, Missouri.

GENTLEMEN: With further reference to S. W. F. B. Proposal 9648, covered by Mr. Gutsch's file B. 112188, Mr. Bogan's file H-11488-41, and which proposal failed of approval before the General Traffic Committee as well as the Executive Committee of the Southwestern Lines, we now understand that the Missouri Pacific and Rock Island Lines, proponents of this proposal, are giving serious consideration to the matter of establishing the rate sought to Memphis and, if the concurrence of the Illinois Central System can be secured, also establish the proposed rate to Greenville, Miss.

In our letter of November 5, addressed jointly to you gentlemen along with freight traffic officials of seven other Southwestern lines and Chairman Cleveland, we believe we made our position with respect to the proposed rates perfectly clear and submitted sufficient facts to convince any one open to conviction regarding the fallacies involved in the contention that if the rates sought are not established the Arkansas refiners involved will construct a pipe line to Champagnolle Landing Ark. on the Ouachita River and transport petroleum products therefrom by water to Greenville, Miss. and Memphis, Tenn. In addition thereto many others thoroughly conversant with conditions and matters involved in transporting petroleum products by pipe line and water from these Arkansas refineries to the Mississippi River ports mentioned have likewise written you gentlemen and given you facts showing that the threatened pipe line-water transportation of these refineries is not practicable, and we are of the opinion that you should have been thoroughly convinced by all of these communications that this argument is simply being used as a subterfuge to reduce rates and break down present petroleum rate structures which it has taken the combined efforts of Mid-Continent refiners, the carriers and the Commission years to construct and work out.

In consideration of all of these facts, please be advised that if your lines now by definite notice establish the rates sought by these Arkansas refiners and thereby discard and disregard the interests and welfare of other refiners in the Mid-Continent field such as this company, we can then only view your action as unfriendly to us and will naturally be compelled to bear it in mind in the future.

Yours very truly,

MID-CONTINENT PETROLEUM CORPORATION,
——— ———, *Traffic Manager.*

LWW:MB
cc—
Messrs:
C. A. L. Walker, P. H. Kuhns,
A. F. Winn, Chas. Ervin,
C. R. Musgrave, H. Hauseman,
R. E. Stewart and J. M. O'Day.

STATE OF OKLAHOMA,
County of Tulsa, ss;

H. W. Roe, of lawful age, being first duly sworn, on oath states:

That he is Traffic Manager of the Mid-Continent Petroleum Corporation; that the attached copy of letter is a true and correct copy of a letter dated December 12, 1936, written by L. W. Witte and signed by H. W. Roe, Traffic Manager of the Mid-Continent Petroleum Corporation, and addressed to Messrs. J. C. Gutsch and A. R. Bogan, as appears from the copy of said letter in the files in the Traffic Department of said Mid-Continent Petroleum Corporation, at its office in Tulsa, Oklahoma.

H. W. ROE.

Subscribed and sworn to before me this 11th day of October, 1939.

[SEAL] M. OPPENHEIMER, *Notary Public.*

My Commission Expires: June 27, 1941.

EXHIBIT NO. 1269

J. J. PELLEY
President

ASSOCIATION OF AMERICAN RAILROADS,
TRANSPORTATION BUILDING,
Washington, D. C., October 9, 1939.

MR. JAMES R. BRACKETT,
Executive Secretary, Temporary National Economic Committee,
Congress of the United States, Washington, D. C.

DEAR MR. BRACKETT: I have your letter of October 7th making inquiry as to the authenticity of a letter written by me under date of January 17, 1935, addressed to seven presidents and six vice-presidents of thirteen major oil companies.

This is to advise that such a letter was written by me and, with the exception of one word, is correctly quoted on page 4 of the Orvis memorandum. In the first sentence, third paragraph, the word "operative" used in the Orvis memorandum should be "effective".

My letter was addressed to the gentlemen whose names are shown on the attached list.

I should like to say, that we do not consider the proposal suggested in this communication as involving any illegality and to advise you further that the plan suggested in the memorandum was never carried out and did not become operative.

Please be assured that I stand ready to give the Committee any additional information which it may desire.

Yours very truly,

J. J. PELLEY.

J. J. PELLEY
President

ASSOCIATION OF AMERICAN RAILROADS,
TRANSPORTATION BUILDING,
Washington, D. C., January 17, 1935.

Re: Memorandum of discussions regarding transportation of Petroleum Products in the Southeast.

DEAR SIR: Based upon discussion with Mr. Cleveland, it is my understanding that in view of certain conditions to be later referred to herein you have stated

that in the Southeast you will discontinue trucking from your water terminals or refineries to the interior for distances in excess of 40 to 50 miles (which is the approximate limit of the customary filling station distribution), whether service by truck for greater distances is being performed by outside agencies or by trucks of your Company, and that you will simultaneously discontinue delivering these products to dealers' or buyers' trucks at your water terminals or refineries.

Railroads in Southeastern territory, in order to make this arrangement an effective one and to stabilize the distribution of these products, will use their best efforts to bring about a readjustment of interterritorial rates on these products into Southeastern territory on the same rate level as fixed by the Interstate Commerce Commission within that territory, it being recognized that in order to make this change in freight rates it will be necessary to obtain relief from outstanding orders of the Interstate Commerce Commission. Railroads in Southeastern territory will reform as rapidly as seems advisable existing leases covering railroad property used for filling station purposes; they will discourage future leases of this character and will in no case make such leases on terms more favorable to lessees than under the reformation plan.

It is suggested that above arrangements become effective May 1, 1935, unless some other date as early as possible will better suit your necessities. It is understood that the above arrangements will continue in effect until your Company or the railroads involved decide that they are not working satisfactorily, in which event sixty days advance notice of the termination of these arrangements will be given, and upon receipt of such notice from any company I will promptly notify the other interests involved.

Very truly yours,

(Signed) J. J. Pelley, *President.*

A letter in the same terms as the one appended has been addressed to the proper officer of each of the following named companies, who have been separately consulted on the subject:

Standard Oil Company of New Jersey, R. G. Stewart, President. Copy to A. G. Phelps, Vice-President and Traffic Manager.
Texas Company, W. S. Rogers,[1] Vice-President.
Sinclair Refining Company, J. M. O'Day, Vice-President.
Shell-Eastern Petroleum Products, Inc., W. Gould, President.
Cities-Service Company, Frank Coates, Vice-President.
Atlantic Refining Company, W. S. Irish, President.
Standard Oil Company of Kentucky, W. E. Smith, President. Copy to Mr. Violette, Vice-President.
Gulf Refining Company, W. V. Hartman, Vice-President.
American Oil Company, John S. Wood, Vice-President.
Pan-American Petroleum Company, John S. Wood, Vice-President.
Pure Oil Co. of Tennessee, Wiley L. Moore, Vice-President.
Wofford Oil Company of Georgia, Wiley L. Moore, President.
Pure Oil Co. of the Carolinas, Wiley L. Moore, President.

Exhibit No. 1270

Railway Traffic Division
CHAS. ERVIN, ASST. MANAGER
W. L. MACATEE, SUPERINTENDENT

The Texas Company

TEXACO PETROLEUM PRODUCTS

135 East 42nd Street, New York

New York, N. Y., *November 16th, 1934.*

Freight rates on petroleum products in the Carolinas and in Florida

Mr. J. E. Tilford,
Chairman, Southern Freight Association,
101 Marietta Street, Atlanta, Georgia.

Dear Sir: Yours of the 15th instant from Washington, File 6–55269, in connection with proposed conference at the Vanderbilt Hotel, New York City, Tues-

[1] Should have been spelled R-o-d-g-e-r-s.

day, November 27th, at 10:00 AM, with Chief Traffic Officers of certain of the southern lines:

The writer contemplates being in Washington on that date in connection with further hearings in Docket Ex Parte 115. However, if the conference is called I shall be glad to have someone from this Company present.

Your further advice will be appreciated.

Very truly yours,

[Signed] Chas. Ervin.

CE–GM

CC–Mr. A. J. Bessolo, AGTM, The Gulf Companies, Pittsburgh.
Mr. Henry Hauseman, TM, Pure Oil Company, Chicago.
Mr. A. G. Phelps, TM, Standard Oil Co. of N. J., New York.
Mr. J. M. O'Day, GTM, Sinclair Refining Co., New York.
Mr. H. G. Schad, TM, Atlantic Refining Co., Philadelphia.
Mr. A. M. Stephens, TM, Standard Oil Co. of Ky., Louisville.
Mr. H. A. Browne, ATM, Shell Eastern Petroleum Corp., St. Louis.
Mr. J. S. Wood, TM, Pan American Petroleum & Transp. Co., New York.

Railway Traffic Division
CHAS. ERVIN, ASST. MANAGER
W. L. MACATEE, SUPERINTENDENT

The Texas Company

TEXACO PETROLEUM PRODUCTS

135 East 42nd Street, New York

New York, N. Y., *November 30th, 1934.*

Southeastern petroleum rates (truck competitive or short haul rates)

Mr. Elmer Oliver,
Vice-President, Southern Railway System,
Washington, D. C.

Mr. Chas. R. Capps,
Chief Traffic Officer, Seaboard Air Line Railway,
Norfolk, Va.

Mr. C. McD. Davis,
Vice-President, Atlantic Coast Line Railroad Company,
Wilmington, N. C.

Mr. J. F. Dalton,
Traffic Manager, Norfolk Southern Railroad Company,
Norfolk, Virginia.

Gentlemen: Following joint conference with you gentlemen the morning of November 28th, 1934, traffic representatives of southern petroleum shippers met in conference that afternoon in an endeavor to agree on a scale of rates which it was felt would enable the southern lines to meet truck competition.

After careful consideration of the cost of operating trucks; the extent of the movement now being made by trucks, and the likelihood of increase in the truck movement, should the existing level of freight rates continue in effect, it was the opinion of the majority of the petroleum representatives that the following scale should be established to apply from shipping points in the south:

Miles	Rate per Cwt.	Miles	Rate per Cwt.	Miles	Rate per Cwt.	Miles	Rate per Cwt.
20	4¢	80	10¢	140	16¢	200	22¢
30	5	90	11	150	17	210	23
40	6	100	12	160	18	220	24
50	7	110	13	170	19	230	25
60	8	120	14	180	20	240	26
70	9	130	15	190	21	250	27

It was felt that this scale, while not as low as the cost of transporting petroleum products by truck, approximates such costs sufficiently close to make unattractive any expansion of truck facilities and will more than likely bring about a return to the rails of some of the petroleum that is now being handled by trucks.

Following our conference we succeeded in getting in touch with Messes. Oliver and Capps and they were furnished a copy of the above scale.

At our joint conference with you gentlemen the necessity for the southern rail lines taking decisive and prompt action to meet the growing inroads of truck competition was presented in a most forceful manner and the scale of rates we are proposing be made effective represents the best judgment of the majority of the petroleum shippers. It is to our mutual interest that definite action be taken with regard to this matter and it is hoped this will be done without delay.

Very truly yours,

[Signed] CHAS. ERVIN.

CE-GM

CC-Mr. J. C. Beck, A. G. T. M., The Gulf Companies, Pittsburgh, Pa.
Mr. H. A. Browne, A. T. M., Shell Eastern Petroleum Products, Inc., 50 West 50th St., New York.
Mr. R. W. J. Flynn, T. M., Standard Oil Company (Louisiana), New Orleans, La.
Mr. Henry Hauseman, T. M., Pure Oil Company, Chicago, Illinois.
Mr. R. H. Maupin, A. T. M., American Oil Co., 122 E. 42nd St., New York.
Mr. H. W. Robertson, T. M., Sinclair Refining Co., 45 Nassau St., New York.
Mr. H. G. Schad, T. M., Atlantic Refining Company, Philadelphia, Pa.
Mr. E. D. Sheffe, A. T. M., Standard Oil Company of N. J., 26 Broadway, New York.
Mr. A. M. Stephens, T. M., Standard Oil Company (Kentucky), Louisville, Ky.

EXHIBIT NO. 1271

W. E. SMITH, *President* Form 191

STANDARD OIL COMPANY

Incorporated in Kentucky

LOUISVILLE, KY., *October 12, 1939.*

VIA AIR MAIL

Registered Mail—Return Receipt Requested.

MR. JAMES R. BRACKETT,
Executive Secretary, Temporary National Economic Committee,
Washington, D. C.

DEAR SIR: In compliance with your telegraphic request of October 10, 1939, I am attaching hereto certified copies of Mr. A. M. Stephens' letters referred to in your telegram.

Very truly yours,

W. E. SMITH.

WES:k

EXHIBIT NO. 1272

A. M. STEPHENS, *Traffic Manager* Form 191

[Copy]

Please refer to file No. E-46

STANDARD OIL COMPANY

Incorporated in Kentucky

LOUISVILLE, KY., *December 12, 1934.*

(Southeastern Petroleum Rates (Truck Competitive or Short Haul Rates.)

MR. CHAS. R. CAPPS,
C. T. O., Seaboard Air Line Ry., Norfolk, Va.,

MR. E. R. OLIVER,
Vice President, Southern Ry., Washington, D. C.,

MR. C. McD. DAVIS,
Vice President, A. C. L. R. R., Wilmington, N. C.,

MR. J. F. DALTON,
T. M. Norfolk Southern R. R., Norfolk, Va.

GENTLEMEN: With reference to letter to you gentlemen under date of November 30, from Mr. Chas. Ervin, Assistant Manager, Railway Traffic Division, The Texas Company, indicating the proposed industrial mileage scale of petroleum rates believed necessary to discourage the trend of the petroleum industry to other forms of transportation throughout southern territory.

It might not be amiss to state at this time that the various marketing divisions of the petroleum industry at large, are giving serious consideration to the agitation for a new price structure similar to that in the north central portion of the country to the extent of reflecting the element of rail transportation costs in the posted prices for gasoline and refined oils at the many jobbing and bulk distributing centers in the territories served by your rails. This new development in the marketing phase of the petroleum industry quite naturally contemplates the observance of the present level of petroleum rates as the minimum cost of rail transportation, and the defense of such minimum level in the representation that there is much water and truck transportation at the present time at costs to the industry so much less than the possible transportation costs via rail under any distance scale that may be devised as to justify the prediction that perhaps in the early part of next year, if not sooner, the petroleum industry may deem it advisable to resist unnecessary reductions in rail rates that would be most unattractive at any figure.

This recent development of which I speak is coincident with advices received this morning indicating that the rail lines represented at the conference in New York on November 28 are no nearer a solution of this problem as it affects them than they were several months ago; in other words, those of us now equipped to take care of our requirements by water and truck may find it much to our disadvantage to aid and abet, so to speak, the rail carriers in their deliberate considerations from time to time of rail rates calculated to temporize with an unfavorable condition here and there and prolong an industrial misery in the major units of the petroleum family that promises to be alleviated quickly and effectually within the next two or three months; as a matter of fact, this company is about ready to consummate a deal on which a rather extensive marine project will be launched within the next two weeks, with others in prospect that lend themselves readily to many economic advantages under the present unfavorable conditions confronting us in our relations with the rail carriers, not only in Florida, but in Alabama and Kentucky as well.

It is to be understood also, notwithstanding that many of us have subscribed to the scale of rates indicated in Mr. Ervin's letter to you gentlemen under date of November 30, recent developments in the marketing division of some of our companies warrant the suggestion that if and when the rail lines agree to the so-called industrial scale of rates on petroleum, such rates should not be extended beyond one hundred fifty miles, where, for instance, the rail traffic is in the direction of competitive influences at a more distant point where we ourselves would find such rates to no practical and beneficial purpose as in the case of distribution from a terminal situated as in Panama City, Florida, from which truck transportation would be more economical and at a cost equivalent to which the carriers could not reasonably be expected to approximate in any measure of a distance scale such as was proposed in Mr. Ervin's letter.

We are entirely in accord with the representation for the necessity of the rail carriers establishing such a level of rail rates where the conditions justify that equalization for account of the rail carriers, however, we do not recommend, nor do we want such a basis for rates that projects itself into some more distant territory that can be reached more economically from another water terminal in the more distant area as would be the case of our distribution out of a terminal at Panama City to such points as Tallahassee, Florida, River Junction, Florida, Columbus, Georgia and Quincy, Florida. I am, therefore, simply calling your attention to a recent development which is attracting much attention from the marketing division of our respective companies in such a manner as to warrant and justify the prediction that unless certain of the Southern rail lines act promptly to cure the situation with which they are confronted, all of the traffic representatives of the oil companies may be compelled to present a solid front and united effort to resist freight rate reductions of no particular benefit to the carriers when made, but likely to become a disturbing element in the new basis for a price structure now in contemplation for southern territory.

Very truly yours,

——— ———, *Traffic Manager.*

AMS:S

copies to:
Mr. J. C. Beck, AGTM, The Gulf Companies, Pittsburgh, Pa.,
Mr. H. A. Browne, ATM., Shell Eastern Petroleum Co., 50 W. 40th St., NY.
Mr. R. W. J. Flynn, TM, Standard Oil Co. of La., New Orleans, La.,
Mr. Henry Hauseman, TM., Pure Oil Co., Chicago, Ill.,
Mr. R. H. Maupin, ATM, American Oil Co., 122 E. 42nd St., New York,
Mr. R. W. Robertson, TM, Sinclair Refg. Co., 45 Nassau St., New York,
Mr. H. G. Schad, TM., Atlantic Refg. Co., Philadelphia, Pa.,
Mr. E. D. Sheffe, ATM, Standard Oil Co. of NJ., New York, N. Y.

[Copy]

I declare that the above is a true copy of my letter of December 12, 1934 to Mr. Chas. R. Capps and the other addressees indicated.

Standard Oil Company,
Incorporated in Kentucky
A. M. Stephens, *Traffic Manager.*
426 W. Bloom St., Louisville, Ky.

Sworn and subscribed to before me on Oct. 12, 1939.
[seal]

Jas. S. Augustus,
Notary Public, Jefferson County, Ky.

My commission expires July 1, 1940.

Exhibit No. 1273

I declare that the attached is a true copy of my letter of May 4, 1937, addressed to Mr. J. C. Beck and as indicated.

Standard Oil Company,
Incorporated in Kentucky
A. M. Stephens, *Traffic Manager.*
426 W. Bloom St., Louisville, Ky.

Sworn and subscribed to before me on Oct. 12, 1939.
[seal]

Jas. S. Augustus,
Notary Public, Jefferson County, Ky.

My commission expires July 1, 1940.

[Copy]

Form 191

cc. Mr. E. D. Sheffe, ATM, Standard Oil Co. of NJ, New York, NY.,
Mr. Harry Graham, TM, Standard Oil Co. of La., New Orleans, La.

A. M. Stephens, *Traffic manager* Please refer to file No. S-47-B

Standard Oil Company
Incorporated in Kentucky

Louisville, Ky., *May 4, 1937.*

Mr. J. C. Beck, A. G. T. M.,
Gulf Oil Corporation, Pittsburgh, Pa.

Dear Joe: Recalling conversation sometime ago in regard to the Southern Freight Association Emergency Proposal No. 2363, indicating proposed rate of 36½ cents from New Orleans-Baton Rouge Group to Atlanta, Ga.

I have discussed this matter with our L&N Railroad friends and after suggesting due consideration for certain other factors and important developments within the last thirty days, I am today advised in a letter from Mr. Quinn, which indicates that "the Commission has been asked to withhold action on both the 'origin-relationship' and the 'Fourth Section' petitions as have been filed to publish the 36½ cent basis".

You will understand, therefore, that for the present there need be no concern over any immediate action by the Louisville & Nashville Railroad or others for the approval of the basis sought, at least, until they are assured of a somewhat more tolerant attitude on the part of certain branches of the petroleum industry and where a spirit of fairness as they suggest may be shown under existing competitive conditions as to which they expect us to be disposed to those natural com-

promises and accommodations on which the common and industrial welfare of our communities are founded so far as the general petroleum rate adjustment in Southern territory for the future is concerned.

Yours truly,

——— ———, *Traffic Manager.*

cc—Mr. Henry Hauseman, TM, The Pure Oil Co., New York, NY.
Mr. H. W. Robertson, TM, Sinclair Refining Co., New York, NY.
Mr. J. S. Wood, TM, American Oil Co., New York, NY.
Mr. H. G. Schad, MRT, Atlantic Ref. Co., Philadelphia, Pa.
Mr. W. A. Hamel, TM, Cities Service Oil Co., New York, N. Y.
Mr. A. C. Hultgren, TM, Shell Petro. Corp., St. Louis, Mo.
Mr. Chas. Ervin, Asst. Mgr., Ry. Traf. Div., The Texas Co., New York, NY.

Exhibit No. 1274

Form-713

C. McD. Davis,
Vice-President.

Atlantic Coast Line Railroad Company,
Wilmington, N. C., October 12, 1939.

Mr. James R. Bracket,
Executive Secretary, Temporary National Economic Committee,
U. S. Senate, Washington, D. C.

Dear Sir: Replying further to your telegram October 9th, which was forwarded to me at Orlando, Fla., and receipt of which I acknowledged in a telegram October 11th, stating that I was en route to Wilmington and expected to reach here today when I would have access to our file and answer the question propounded in your telegram.

I find upon an examination of the file that the letter in question was not written or signed by me personally but was dictated and signed in my name by Mr. J. W. Perrin, Freight Traffic Manager of this company.

We do not have the original letter but enclose herewith a certified copy of the carbon copy on our file, together with Mr. Perrin's letter of this date which is briefly explanatory of the contents thereof; also copy of the Court Order referred to in Mr. Perrin's letter.

Yours very truly,

C. McD. Davis,
Vice-President.

J. W. Perrin,
Freight Traffic Manager
R. J. Doss,
Freight Traffic Manager

F. L. Glover,
Assistant Freight Traffic Manager
R. G. Hodgkin,
Assistant Freight Traffic Manager
W. H. Henderson,
Assistant Freight Traffic Manager

Atlantic Coast Line Railroad Company,
Freight Traffic Department,
Wilmington, N. C., October 12, 1939.

Mr. C. McD. Davis,
Vice-President, Atlantic Coast Line R. R. Co.,
Wilmington, N. C.

Dear Sir: Referring to telegram, dated October 9, from Mr. James R. Bracket, Executive Secretary, Temporary National Economic Committee, addressed to you, reading as follows:

"Statement filed with the Temporary National Economic Committee by E. L. Orvis contains purported copy of letter written by you to Standard Oil Company, New Jersey, Texas Company, American Oil Company, Sinclair Company, Shell Eastern and Atlantic Refining Company dated February 10, 1936 Stop First paragraph begins 'You are advised of the steps that have been taken by rail lines at Wilmington in connection with

the various other lines reaching destinations in North Carolina etc.' Stop Last paragraph begins 'You will recall that during course of the conference between yourself and representatives of North Carolina railroads, etc.' Stop Committee has instructed me to authenticate reputed letter. Will appreciate your informing me immediately whether letter in fact signed by you and forward to me special delivery a certified copy of the letter. Committee hopes to dispose promptly of this matter so as to avoid issuance of subpoena."

A certified copy of our carbon copy of the letter described in Mr. Bracket's telegram is enclosed herewith. The original letter bears your signature, but it was dictated and signed in your name by me.

The said letter relates to contemplated reductions by the rail carriers operating in North Carolina of the intrastate rates on petroleum from Wilmington, N. C., to points throughout North Carolina.

At that time severe inroads were being made in the petroleum tonnage of the rail carriers out of Wilmington. Investigation disclosed that the traffic was moving by private trucks of the producing and distributing oil companies, as well as by contract trucks. We were further threatened with a project to initiate barge service up the Cape Fear River by which petroleum would be barged from Wilmington to Fayetteville for distribution by trucks beyond. In fact, representatives of several of the oil producing companies doing business at Wilmington advised us that if we wished to retain the traffic left to us and to prevent the diversion of additional traffic to the barge-truck route via Fayetteville, reductions would have to be made in the all-rail rates. The purpose of the conference of December 20, 1935, referred to in the last paragraph of the letter of February 10, 1936, was to develop necessary information as to the extent of the competition from a rate standpoint, and, in particular, the threatened competition with the barge-truck route via Fayetteville.

It was anticipated that there would be an effort made by interests at Fayetteville, N. C., to prevent the reductions in the rates from Wilmington from becoming effective, and the oil companies were requested to supply such information as would be helpful in the defense of the reduced rates, if they should be attacked. The letter of February 10 was merely to inform the oil companies of the injunction proceedings against the reduced rates (the City of Fayetteville having intervened in the proceedings), and to remind them of their offer of assistance in defending the rates.

The restraining order, issued by Judge Barnhill upon complaint of the Carolina Motor Service, Inc., John P. Nutt Corporation, and Oil Transit Company, was duly heard before Judge W. C. Harris of the North Carolina Superior Court of Wake County on March 21, 1936, and, after full hearing Judge Harris not only dissolved the restraining order but dismissed the complaint. A copy of Judge Harris' order dismissing the proceedings is enclosed herewith. It should be added, none of the representatives of the oil companies aforesaid appeared at the hearing.

Very truly yours,

J. W. PERRIN,
Freight Traffic Manager

I, J. W. Perrin, Freight Traffic Manager of the Atlantic Coast Line Railroad Company, Wilmington, N. C., hereby certify that the attached document is a true copy of a carbon copy of a letter dated February 10, 1936, addressed to Mr. A. G. Phelps and others, on file in my office.

J. W. PERRIN.

Subscribed and sworn to before me this 12th day of October, 1939, at Wilmington, N. C.

My commission expires Dec. 30, 1939.
[SEAL]

B. B. REYNOLDS,
Notary Public.

FEBRUARY 10, 1936.
55794-8-A.

Mr. A. G. Phelps, TM, Standard Oil Co. of N. J., 26 Broadway, New York, N. Y.
Mr. Charles Ervin, TM, The Texas Company, 135 E. 42nd St., New York, N. Y.
Mr. J. S. Wood, TM, American Oil Company, 122 E. 42nd St., New York, N. Y.
Mr. J. M. O'Day, GTM, Sinclair Refining Co., 45 Nassau St., New York, N. Y.
Mr. H. A. Browne, TM, Shell Eastern Petroleum Prod., Inc., 50 W. 50th St., New York, N. Y.
Mr. H. G. Schad, TM, Atlantic Refining Co., 260 S. Broad St., Philadelphia, Pa.

GENTLEMEN: You are advised of the steps that have been taken by the rail lines at Wilmington in connection with the various other lines reaching destinations in North Carolina to make certain reductions in the existing rates on gasoline and kerosene from Wilmington to all North Carolina destinations to which this traffic is being shipped. The tariff has been compiled and is ready to be made effective in a few days, but we are this morning in receipt of copy of temporary restraining order issued by Judge M. V. Barnhill of the North Carolina Superior Court in compliance with the petition by the Carolina Motor Service, Inc., the John P. Nutt Corporation and Oil Transit Company, hearing on the issue to be before Judge W. C. Harris of the North Carolina Superior Court at Raleigh, N. C., 11:00 A. M., Saturday, February 15th. I enclose copy of the complaint on which the temporary restraining order was issued.

It is, of course, our purpose to resist the proposed interferences with the changes that have been worked out in cooperation with yourselves and for that purpose we will have present at the hearing a representative of our Freight Traffic Department, as well as an attorney.

You will recall that during the course of the conference between yourselves and representatives of some of the North Carolina Railroads in New York on December 20, 1935, an understanding was reached that if any legal obstacles in the way of carrying out the proposed schedule of rates were encountered you gentlemen would render what assistance you could in the furtherance of the program. I, therefore, suggest that you attend or be represented at the hearing if you can possibly arrange to do so.

Yours very truly,

(Signed) C. McD. DAVIS,
(Dictated by) Mr. PERRIN,
Vice President.

Copy to—
Mr. C. R. Capps, CTO, Seaboard Air Line Railway, Norfolk, Va.

[COPY]

IN THE SUPERIOR COURT

NORTH CAROLINA,
Wake County:

Carolina Motor Service, Inc., The John P. Nutt Corporation, and Oil Transit Company *vs.* Atlantic Coast Line Railroad Company, Southern Railway Company, Leigh R. Powell, Jr., and Henry W. Anderson, Receivers of Seaboard Air Line Railway Company, and M. S. Hawkins and L. H. Windholz, Receivers of Norfolk Southern Railroad Company, and Stanley Winborne, Utilities Commissioner of the State of North Carolina. Judgment

This cause coming on to be heard upon complaint, answers and affidavits and documentary evidence offered by the plaintiffs, and upon the oral motion of the defendants, Atlantic Coast Line Railroad Company, Southern Railway Company, Leigh R. Powell, Jr., and Henry W. Anderson, Receivers of Seaboard Air Line Railway Company, and M. S. Hawkins and L. H. Windholz, Receivers of Norfolk Southern Railroad Company, to dissolve the restraining order heretofore entered in this cause by his Honor, M. V. Barnhill, Judge, and it appearing from the complaint and the prayer of the plaintiffs for judgment that the relief demanded is that the defendant railroads be perpetually enjoined and restrained from putting into effect, filing with the Utilities Commissioner, or promulgating any rates for intrastate transportation of petroleum products between points and on routes wholly within the State of North Carolina lower than the present rates thereon, and that Stanley Winborne, Utilities Commissioner, be perpetually enjoined and restrained from receiving for filing, or filing or promulgating, rates for the intrastate transportation of petroleum products between points and on routes within the State of North Carolina lower than the present rates thereon,

or such other relief as the Court may deem the plaintiffs entitled to upon the allegations of the complaint, and the Court being of the opinion that the restraining order should be dissolved and being of the further opinion that the plaintiffs are not entitled to the relief prayed for in the complaint, or to any other relief:

IT IS NOW, THEREFORE, upon motion of the defendants, Atlantic Coast Line Railroad Company, Southern Railway Company, Leigh R. Powell, Jr., and Henry W. Anderson, Receivers of Seaboard Air Line Railway Company, and M. S. Hawkins and L. H. Windholz, Receivers of Norfolk Southern Railroad Company, ordered and adjudged that the preliminary restraining order heretofore granted be, and the same is hereby, dissolved and that the action be dismissed.

It is further ordered and adjudged that the defendants recover of the plaintiffs and the surety on their prosecution bond the costs of the action to be taxed by the Clerk of the Court.

This the 21st day of March, 1936.

(Signed) W. C. HARRIS,
Judge Resident in the Seventh Judicial District.

EXHIBIT NO. 1275

J. J. PELLEY,
President

ASSOCIATION OF AMERICAN RAILROADS,
TRANSPORTATION BUILDING,
Washington, D. C., October 9, 1939.

Mr. JAMES R. BRACKETT,
Executive Secretary, Temporary National Economic Committee,
Congress of the United States, Washington, D. C.

DEAR MR. BRACKETT: You requested copy of a letter written by Mr. Cleveland to various officers of oil companies under date of April 26, 1935. A copy of that letter is attached hereto as requested.

I trust you will permit me to explain that Mr. Cleveland had a conference in New York under date of April 16, 1935, at which he received a request as to certain rate readjustments which the oil companies stated would be necessary to place the railroads' freight rate adjustment on gasoline and refined oil, illuminating or burning, on a competitive basis in the Southeast with rates being charged by competing trucking agencies. This suggestion was promptly submitted to the Southern lines and Mr. Cleveland's letter of April 26th is in answer to the request for readjustment of rates which he received. It does not provide the basis of rates which the oil companies requested but was the conclusion of the Southern lines as to what the proper rates should be.

I further desire to call to your attention that there is nothing strange or unusual about this procedure, as the railroads individually and collectively are at all times giving consideration to requests for rate readjustments by the shippers individually and by groups, so that the correspondence which you request is nothing more than the usual and every-day occurrence and presents nothing more than the customary procedure in the handling of both class and commodity rates by the shippers and the railroad traffic officers.

Very truly yours,

J. J. PELLEY.

A. F. CLEVELAND,
Vice President

ASSOCIATION OF AMERICAN RAILROADS

TRAFFIC DEPARTMENT.

Transportation Building

WASHINGTON, D. C., *April 26, 1935.*
1-3001-1

Conference New York, Thursday, April 16, 1935, regarding Petroleum Rates in Southeastern Territory.

Mr. A. G. Phelps, T. M., Standard Oil Company of New Jersey, New York, N. Y.
Mr. R. W. J. Flynn, T. M., Standard Oil Company of Louisiana, New Orleans, La.
Mr. H. A. Browne, T. M., Shell-Eastern Pet. Products Company, New York, N. Y.
Mr. G. E. Nuttall, Shell-Eastern Pet. Products Company, New York, N. Y.

Mr. Charles Ervin, Asst. Manager-Traffic, The Texas Co., New York, N. Y.
Mr. E. D. Sheffe, A. T. M., Standard Oil Co. of New Jersey, New York, N. Y.
Mr. H. G. Schad, The Atlantic Refining Company, Philadelphia, Pa.
Mr. R. H. Maupin, American Oil Company, New York, N. Y.
Mr. J. E. Monroe, Pan American Petroleum Corporation, New Orleans, La.
Mr. Harry Hauseman, Pure Oil Company, Chicago, Ill.
Mr. J. C. Beck, A. G. T. M:, Gulf Refining Company, Pittsburgh, Pa.
Mr. C. J. Bessold, A. F. T. M., Gulf Refining Company, Pittsburgh, Pa.
Mr. E. W. Pembleton, Cities Service Company, New York, N. Y.
Mr. Harry D. Frueauff, Cities Service Company, New York, N. Y.

Gentlemen: As arranged at the very helpful and pleasant conference held with you gentlemen at New York at the Commodore Hotel on Thursday, April 16th, your suggestions as to revision of the carload rates on gasoline, etc., were presented to the Southern lines at conferences held this week. I am authorized to report to you as follows, and, in presenting the conclusions of the Southern carriers, it will be my endeavor to treat with them in the order in which they were considered at the New York meeting:

TERRITORY OF ORIGIN

Virginia and South Atlantic ports at which storage stations are located, including Tampa, Port Tampa, Pensacola and Panama City, Florida.

No truck competitive rates will be established on petroleum from interior ports, such as Fayetteville, Augusta, etc.

TERRITORY OF DESTINATION

Points in Virginia south of Virginia gateways and points in North and South Carolina, Georgia and Florida where bulk stations or the equivalent thereof are located.

DESCRIPTION OF COMMODITY

The carriers are agreeable to using the description suggested by the oil companies, which will read as follows: "Gasoline, including blended gasoline and refined oil, illuminating or burning."

GENERAL SUGGESTIONS OF THE OIL INDUSTRY

1. The Southern carriers are agreeable to using as a minimum basis a scale for the establishment of specific rates at points where truck competition exists.
2. The southern carriers are agreeable to the publication of specific rates, using the truck competitive scale as minimum therefor to all bulk stations within a radius of 250 miles.
3. It is not necessary that the oil companies should furnish lists of their bulk locations or the equivalent thereof, as the Southern carriers have this information.
4. The rates that are published will be shown as truck competitive rates and so earmarked.

BASIS FOR RATES

The scale presented by the oil companies, beginning at 4 cents at 20 miles and increasing 1 cent for each 10 miles thereafter, terminating at 250 miles with a rate of 27 cents, was thoroughly considered by the Southern carriers, who are unanimous in their conclusion that the basis requested by the oil companies is much lower than the railroads are warranted in providing, the basis being substantially less than that applicable in Central Freight Association territory where both highway and railroad conditions, including density of traffic, are much more favorable than in Southern territory. These Southern carriers, although they could not see their way clear to adopt the suggestion of the oil companies, were nevertheless exceedingly anxious to make such revision in their rates as conditions might reasonably permit, to the end that they would have an adjustment on a basis where they felt they would be justified in expecting the oil companies to put this traffic on the rails. After very careful consideration of the subject, they authorized me to advise you that they are willing to progress a revision of their rates, using the following scale as a basis for specific rates and subject to the use of short line rail mileages, except that in specific cases where special conditions exist they would be willing to give special consideration, upon request, as has in the past been their practice:

Scale to be used as minimum in the establishment of specific truck competitive rates from ocean and Gulf ports to interior bulk station locations

Miles	Rate	Miles	Rate	Miles	Rate
5	4	65	13	150	23
10	4	70	14	160	24
15	5	75	15	170	24
20	5	80	16	180	25
25	6	85	17	190	26½
30	7	90	18	200	28
35	8	95	19	210	29
40	9	100	19	220	30½
45	10	110	20	230	32
50	10	120	21	240	33½
55	11	130	21	250	35
60	12	140	22		

I do not want to close this report without a very sincere expression of my most hearty appreciation for the very helpful, friendly and enthusaistic reception of my endeavors which has been shown by each and every representative of the great oil companies with whom it has been my pleasure and privilege to meet in this connection. I also want the representatives of the oil companies to know the very earnest, helpful and enthusiastic cooperation that has been extended by the traffic executives of the Southern carriers in their desire to do all that they consistently might in order to accomplish that which would be mutually helpful to both the oil companies and the railroads. The earnest, constructive and helpful approach both of the oil companies and the railroads is exceedingly gratifying and may, I trust, be mutually satisfactory in its results to both interests. I regret deeply that the more constructive original program became impossible, but I am happy in the thought that that impossibility resulted from no failure of a proper cooperation on either side but was solely due to forces over which neither side had any control.

Finally, in conclusion, I want to express the hope that the representatives of the oil industry will fully appreciate that which the Southern carriers are proposing and that that appreciation will be proven in a practical way by the oil companies using the rail facilities to the fullest extent possible.

Very truly yours,

(Signed) A. F. CLEVELAND.

EXHIBIT No. 1276

[Copy submitted by Edwin S. Hall, Counsel, Standard Oil Co., of N. J.]

ASSOCIATION OF AMERICAN RAILROADS,
TRANSPORTATION BUILDING,
Washington, D. C., January 17, 1935.

Re: Memorandum of discussions regarding transportation of Petroleum Products in the Southeast.

Mr. R. G. STEWART,
President, Standard Oil Company of New Jersey,
26 Broadway, New York, N. Y.

Dear Sir: Based upon discussion with Mr. Cleveland, it is my understanding that in view of certain conditions to be later referred to herein you have stated that in the Southeast you will discontinue trucking from your water terminals or refineries to the interior for distances in excess of 40 to 50 miles (which is the approximate limit of the customary filling station distribution), whether service by truck for greater distances is being performed by outside agencies or by trucks of your Company, and that you will simultaneously discontinue delivering these products to dealers' or buyers' trucks at your water terminals or refineries.

Railroads in Southeastern territory, in order to make this arrangement an effective one and to stabilize the distribution of these products, will use their best efforts to bring about a readjustment of inter-territorial rates on these products into Southeastern territory on the same rate level as fixed by the Interstate Commerce Commission within that territory, it being recognized that in order to make this change in freight rates it will be necessary to obtain relief from outstanding

orders of the Interstate Commerce Commission. Railroads in Southeastern territory will reform as rapidly as seems advisable existing leases covering railroad property used for filling station purposes; they will discourage future leases of this character and will in no case make such leases on terms more favorable to lessees than under the reformation plan.

It is suggested that above arrangements become operative May 1, 1935, unless some other date as early as possible will better suit your necessities. It is understood that the above arrangements will continue in effect until your Company or the railroads involved decide that they are not working satisfactorily, in which event sixty days advance notice of the termination of these arrangements will be given, and upon receipt of such notice from any company I will promptly notify the other interests involved.

Very truly yours,

[Signed] J. J. PELLEY.
President.

Copy to
Mr. A. G. Phelps
Vice-President and Traffic Manager
Standard Oil Company of New Jersey
26 Broadway, New York

EXHIBIT No. 1277

[Copy submitted by Edwin S. Hall, Counsel, Standard Oil Co. of New Jersey]

JANUARY 31, 1935.

Mr. J. J. PELLEY,
President, Association of American Railroads,
Transportation Building, Washington, D. C.

DEAR SIR: Your letter of January 17 addressed to Mr. R. G. Stewart of this Company has been brought to my attention. I am seriously disturbed over the possible application of the Federal and State Anti-Trust Laws to the agreement you suggest. That agreement involves the curtailment of the use by the participating oil companies of means they have available for competing one with the other. It also involves their participation in an agreement by the railroads to revise existing leases for filling stations on railroad properties and to discourage future leases. I wonder if your counsel have given any consideration to this problem.

Yours very truly,

(Signed) E. S. HALL.

ESH MF

EXHIBIT No. 1278

J. J. PELLEY,
President.

[Copy submitted by Edwin S. Hall, Counsel, Standard Oil Co. of New Jersey]

ASSOCIATION OF AMERICAN RAILROADS,
TRANSPORTATION BUILDING,
Washington, D. C., February 1, 1935.

DEAR MR. HALL: This will acknowledge receipt of your letter of January 31st. The subject you refer to has been discussed with counsel. Our General Solicitor, Mr. J. Carter Fort, and Mr. A. F. Cleveland, Vice-President of the Traffic Department, expect to be in New York Thursday or Friday of next week to discuss with another company the same questions that you present. If agreeable to you, I shall be very glad to have them call on you also and discuss this subject at that time. Kindly advise if this will be satisfactory.

Very truly yours,

(Signed) J. J. PELLEY.

EDWIN S. HALL, ESQ.,
Counsel, Standard Oil Company of New Jersey,
26 Broadway, New York, N. Y.

EXHIBIT No. 1279

[Copy submitted by Edwin S. Hall, Counsel, Standard Oil Co. of New Jersey]

1935 FEB 4 PM 4 41

CD 16 CAK Sender Requests Answer TX Washington DC Feb. 4

EDWIN S. HALL,
Counsel, Standard Oil Co., 26 Broadway.

Kindly advise if it would be agreeable to you to see Messrs. Fort and Cleveland Thursday afternoon February seventh at two thirty or Friday morning ten thirty your office.

J. J. PELLEY.

EXHIBIT No. 1280

[Copy submitted by Edwin S. Hall, Counsel, Standard Oil Co. of New Jersey]

FEBRUARY 4, 1935.

Mr. J. J. PELLEY,
President, Association of American Railroads,
Transportation Building, Washington, D. C.

DEAR MR. PELLEY: I expect to be at my office Thursday and Friday of this week and shall be glad to receive Messrs. Fort and Cleveland if they call.

If another petroleum company has raised the questions I mentioned in my letter and Messrs. Fort and Cleveland expect to discuss the problem with its representatives, the matter might be handled at a joint conference. I think I know counsel for all the companies mentioned in your letter and I feel quite sure any one of them would be glad to accept the proposal of a joint conference. If you will tell me the identity of the other company I will be glad to mention to its counsel the possibility of a joint conference.

Yours very truly,

(Signed) E. S. HALL.

ESH MF

P.S. Since dictating the above your telegram has been received. I will be glad to see Messrs. Fort and Cleveland Thursday afternoon at 2:30.

EXHIBIT No. 1281

[Copy submitted by Edwin S. Hall, Counsel, Standard Oil Co. of New Jersey]

CD30 CAK TX Washington DC Feb 5 326P 1935 Feb 5

EDWIN S. HALL,
Standard Oil Co. of New Jersey, 26 Broadway.

Your letter fourth to Mr Pelley We were asked to meet with Mr H T Klein Vice President and General Counsel The Texas Company and have made definite appointment his office ten thirty Thursday morning February seventh Mr Fort and the undersigned will be glad to follow your suggestion for joint conference providing you can so arrange and will wire time and place of same.

A F CLEVELAND.

EXHIBIT No. 1282

[Copy submitted by Edwin S. Hall, Counsel, Standard Oil Co. of New Jersey]

FEBRUARY 6, 1935 (From Room 2300).

Mr. A. F. CLEVELAND,
Association of American Railroads,
Transportation Building, Washington, D. C.

Will meet you Thursday morning ten thirty Colonel Klein's office.

EDWIN S. HALL.

EXHIBIT No. 1283

[Copy submitted by Edwin S. Hall, Counsel, Standard Oil Co. of New Jersey]

FEBRUARY 18 1935.

Mr. R. T. HASLAM
Building.

DEAR SIR: Mr. Stewart had some conversations with representatives of the Association of American Railroads with respect to the discontinuance of trucking gasoline from terminals or refineries in the southeast for a distance in excess of forty or fifty miles. After the conversations, Mr. Stewart received a letter from Mr. Pelley, President of the Association, of which the enclosed is a copy. He then referred the matter to me. I told Mr. Stewart I was disturbed over the possible application of Federal and State Anti-Trust Laws to the suggested agreement. He asked me to communicate my fear to the representatives of the Association and discuss the matter with them. During that discussion which was held in the office of Colonel H. T. Klein, General Counsel of The Texas Company, on February 7, Colonel Klein suggested to Messrs. Cleveland and Fort, representing the Association, that he would advise The Texas Company against entering into the proposed agreement unless the agreement had the approval of the President of the United States and was thus afforded the immunity from Anti-Trust Law prosecution accorded by the National Recovery Act to agreements so approved. The meeting with the Association's representatives concluded with the understanding that the oil company representatives present would discuss with their executives the advisability of seeking Presidential approval of the contemplated agreement.

I think the contemplated agreement should not be made unless we are assured through Presidential approval of immunity from prosecution for Anti-Trust Law violations. I shall be glad to try to develop the possibility of securing Presidential approval of the contemplated agreement if you wish it, although I think I should note at this time that I doubt the possibility of obtaining such approval.

Mr. Phelps has views with respect to the advisability, from a practical standpoint, of our entering into the proposed agreement and he will discuss this phase of the problem with you.

The Railroads are engaged in a vigorous attempt to restrict truck and bus operation to force the transportation of freight and persons back on to the rails. The petroleum industry feeling the Railroads' success in this endeavor would materially reduce the consumption of petroleum products has been engaged in an equally serious attempt to prevent the enactment of the legislation desired by the Railroads. It would seem to me entirely inconsistent for the petroleum industry to spend time and effort in opposing the Railroads' sponsored legislation of this type while at the same time it makes an agreement to restrict its own operation of motor vehicles.

Yours very truly,
ESH:MF (Signed) E. S. HALL.

EXHIBIT No. 1284

RAILWAY TRAFFIC DIVISION
CHAS. ERVIN, ASST. MANAGER
W. L. MACATEE, SUPERINTENDENT

THE TEXAS COMPANY

TEXACO PETROLEUM PRODUCTS

135 East 42nd Street, New York

NEW YORK, N. Y., *December 31, 1934.*

SOUTHEASTERN PETROLEUM RATES (*Truck Competitive or Short Haul Rates*)

Mr. ELMER OLIVER,
Vice President, Southern Railway System,
Washington, D. C.

Mr. CHAS. R. CAPPS,
Chief Traffic Officer, Seaboard Air Line Railway,
Norfolk, Va.

Mr. C. McD. DAVIS,
Vice-President, Atlantic Coast Line Railroad Company,
Wilmington, N. C.

Mr. J. F. DALTON,
Traffic Manager, Norfolk Southern Railroad Company,
Norfolk, Virginia.

GENTLEMEN: Possibly through oversight Mr. A. M. Stephens, Traffic Manager, Standard Oil Company (Kentucky), did not favor me with copy of his letter to you of December 12th concerning my letter to you of November 30, 1934, regarding short haul petroleum rates; however, I have seen copy of his letter.

It appears that Mr. Stephens, by his letter of December 12th, is attempting to express the views of the southern petroleum shippers generally, which is not correct so far as The Texas Company is concerned and Mr. Stephens is not authorized to represent this Company in the matter. In point of fact, our marketing people inform me that there is no foundation for the statement contained in Mr. Stephens' letter regarding any agreement concerning "a new price structure"; moreover, we do not agree that there should be no change in the present rate level for distances up to 250 miles.

It is quite evident that Mr. Stephens' only concern regarding this proposed adjustment is that his Company be given certain advantages that would be denied other shippers or to state his position more accurately, and as indicated in his letter, his Company has under contemplation certain projects which will result in the diversion of considerable tonnage from the rails to other modes of transportation, for which reason, in his opinion, nothing should be done which would minimize their advantage over other shippers. For the carriers to comply with his request that no change be made in the present rates will simply force other shippers to also divert their tonnage from the rails.

I do not believe the southern rail carriers need be concerned over Mr. Stephen's threat of resisting freight rate reductions that may be established to meet truck competition, nor is it probable that "all of the traffic representatives of the oil companies may be compelled to present a solid front and united effort to resist freight rate reductions * * *".

As indicated at the time of our conference in New York, The Texas Company is prepared to proceed with their plans of transporting by motor truck and/or barge a large volume of petroleum products from their several shipping points in Southern Territory that now moves via rail and unless we receive prompt and definite advice from the rail carriers that they will immediately publish rates on a level that will make unnecessary the diversion of such tonnage from the rails I shall recommend that they proceed with the installation of necessary facilities for the transportation of their products.

Your early advice will be appreciated.

Very truly yours,

(Signed) CHAS. ERVIN.

CE-GM

CC—Mr. J. C. Beck, A. G. T. M.,
The Gulf Companies, Pittsburgh, Pa.
Mr. R. N. J. Flynn, T. M..
Standard Oil Company (Louisiana), New Orleans, La.
Mr. H. A. Browne, T. M.,
Shell Eastern Petr. Products, Inc., 50 West 50th St., New York.
Mr. Henry Hauseman, T. M.
Pure Oil Company, Chicago, Illinois.
Mr. R. H. Maupin, A. T. M.,
The American Oil Co., 122 East 42nd St., New York.
Mr. H. W. Robertson, A. T. M.,
Sinclair Refining Co, 45 Nassau St., New York.
Mr. H. G. Schad, T. M.,
Atlantic Refining Company, Philadelphia, Pa.
Mr. E. D. Sheffe, A. T. M.,
Standard Oil Company of N. J., 26 Broadway, N. Y. City.
Mr. A. M. Stephens, T. M.,
Standard Oil Company (Kentucky), Louisville, Ky.
Mr. J. E. Tilford, Chairman,
Southern Freight Association,
101 Marietta St., Atlanta, Ga.

EXHIBIT No. 1285

[Submitted by Harry T. Klein, Counsel, The Texas Co.]

JANUARY 19, 1935.

Mr. J. J. PELLEY,
President, Association of American Railroads,
Transportation Building, Washington, D. C.

DEAR MR. PELLEY: I have your letter of January 17, with reference to my recent discussion with Mr. Cleveland.

In principle, we are sympathetic with what Mr. Cleveland has been trying to work out, but I think there is a possibility there is some misunderstanding in reference to some of the points raised in our recent conference.

Mr. Charles Ervin, our traffic manager, expects to see Mr. Cleveland in Washington, the first part of next week, on some other matters, and I have asked him to discuss this subject with Mr. Cleveland, and in case there has been a misunderstanding, to clear it up.

Yours very truly,

(Signed:) W. S. S. RODGERS.

WSSR–EWQ
CE (Blind)

EXHIBIT No. 1286

[Submitted by Harry T. Klein, Counsel, The Texas Co.]

ASSOCIATION OF AMERICAN RAILROADS,
TRANSPORTATION BUILDING,
Washington, D. C., January 23, 1935.

Mr. W. S. S. RODGERS,
President, The Texas Company,
135 East 42nd Street, New York, N. Y.

DEAR MR. RODGERS: I want to thank you for your kind letter of the 19th. Of course, neither Mr. Cleveland nor I desired any misunderstnding with reference to the matter regarding which I wrote you under date of January 17th. Mr. Cleveland advises me that he had a long interview with Mr. Ervin yesterday, and that he has given Mr. Ervin full information in regard to all questions that he had in mind. He is of the opinion that with the explanations made, Mr. Ervin is fully satisfied. I regret that I was not in Washington when Mr. Ervin called, as I should have been most pleased to have met him and to have participated in the conference.

Very truly yours,

J. J. PELLEY.

cc HTK–CE (Personal) from WSSR.

EXHIBIT No. 1287

[Submitted by Harry T. Klein, Counsel, The Texas Co.]

JANUARY 29, 1935.

Mr. J. J. PELLEY,
President, Association of American Railroads,
Transportation Building, Washington, D. C.

DEAR MR. PELLEY: Receipt is acknowledged of your letter of January 23.

I have discussed the subject matter of your letter of January 17 with our General Counsel. He advises that, inasmuch as the practical effect of the arrangement proposed in your letter is an agreement among the major competitive oil companies to forego certain methods of competition, before we would be justified in finally agreeing to the arrangement it would be advisable to reduce the details to writing and submit the proposal to the National Oil Administrator for consideration, in accordance with the provisions of Section 4–A of the National Industrial Recovery Act.

If you are in accord with the effort being made to work out the details of the arrangement on this condition, I will be glad to have the matter pursued further by the representatives of our Company.

Very truly yours,

(Signed) W. S. S. RODGERS.

WSSR–EWQ.
Copy to Mr. Paul Shoup.
HTK–CE (Blind).

EXHIBIT No. 1288

[Submitted by Harry T. Klein, Counsel, The Texas Co.]

ASSOCIATION OF AMERICAN RAILROADS,
TRANSPORTATION BUILDING,
Washington, D. C., January 31, 1935.

Mr. W. S. S. RODGERS,
President, The Texas Company,
135 East 42nd Street, New York, N. Y.

DEAR MR. RODGERS: This will acknowledge receipt of your letter of January 29th. The questions raised by you will be given prompt consideration. I would like to suggest, subject to your approval, that Mr. Fort, our General Solicitor, and Mr. Cleveland have a conference with your General Counsel on Thursday or Friday, February 7th or 8th, whichever will best suit his convenience, in order to discuss the matter and ascertain from him what it is he would like to have us do. It is our thought that the matter can be handled much better by conference than is possible through correspondence.

Very sincerely,

J. J. PELLEY.

EXHIBIT No. 1289

[Submitted by Harry T. Klein, Counsel, The Texas Co.]

FEBRUARY 1, 1935.

Mr. J. J. PELLEY,
President, Association of American Railroads,
Transportation Building, Washington, D. C.

DEAR MR. PELLEY: I have your letter of January 31.

Mr. H. T. Klein, Vice President and General Counsel, will be very glad to discuss this subject with Messrs. Fort and Cleveland, on either next Thursday or Friday. Inasmuch as I shall be out of town next week, I suggest that these gentlemen communicate with Col. Klein direct, and arrange a convenient time.

Yours very truly,

(Signed) W. S. S. RODGERS.

WSSR-EWQ.
HTK-CE (Blind).

EXHIBIT No. 1290

[Sumbitted by Harry T. Klein, counsel, The Texas Co.]

WASHINGTON, D. C., *February 4.*

H. T. KLINE,[1]
Vice Pres. and General Counsel, The Texas Co.:

Please refer to Mr. Rodger's letter February first to President Pelley. Would it be convenient to you to see Mr. Fort and the undersigned your office ten thirty Thursday morning February seventh.

A. F. CLEVELAND.

EXHIBIT No. 1291[2]

[Telegram submitted by Harry T. Klein, counsel, The Texas Co.]

NEW YORK, *February 4, 1935.*

Mr. A. F. CLEVELAND,
Association of American Railroads,
Transportation Building, Washington, D. C.:

Your telegram Will be glad to see you and Mr. Fort in my office Ten thirty Thursday morning February seventh.

HARRY T. KLEIN.

HTK-AGN.

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[1] Should be K-L-E-I-N.
[2] The shorthand notes, introduced by Mr. Klein as a part of this exhibit, do not appear at this point since a transcription of them appears in full in the text.

Exhibit No. 1292

[Submitted by Harry T. Klein, counsel, The Texas Co.]

March 25, 1935.

Mr. J. J. Pelley,
President, Association of American Railroads,
Transportation Building, Washington, D C.

Dear Mr. Pelley: Referring further to your letter of January 17 and my letter to you of January 29, regarding transportation of petroleum products in the southeastern states:

Conferences at which the subject matter of these letters was fully discussed have been held by Messrs. Cleveland, Fort and Klein. In view of the legal difficulties involved, it is my opinion that it will not be practicable for us to carry out the suggestions contained in your letter of January 17th, and I therefore suggest that the matter be dropped.

Unless I hear from you to the contrary, I will close my file on the subject.

Yours very truly,

(Signed) W. S. S. Rodgers.

WSSR-EWQ.
HTK-CE (Blind).

Exhibit No. 1293

A Statement Prepared for the Temporary National Economic Committee by Eugene L. Orvis, 1 Hampton Court, Jersey City, N. J.

With so much testimony to the contrary, he would be an analyst discredited from the start who sought to set at nought the unanimous findings of many expert commentators through the last sixty years. Without exception, these commentators have proclaimed the vital part played in the oil industry drama by one actor who necessarily must be continuously on the stage Never is he absent; never can he be absent. And never is he merely auxiliary, this actor named Transportation. The part he plays is every bit as important as those played by Production, Refining, and Marketing. Without him, in fact, the part played by Marketing need never have been written, and without him the parts of all the rest would be inconclusive, of no value or effectiveness.

Six decades of outside observers have held this truth to be self-evident. It was and has been just as evident, and for an even longer time, to those on the inside—to the layers of the foundation of the industry and to those who have succeeded them in the building of it. Genius and cupidity in varying degrees are disclosed in every analysis and study of the business. And according to most biographers, the cunnings of cupidity have prevailed in the field of transportation. These have been practiced and developed with a constant recognition of the need for control in that field at any cost or risk. To gain and hold ascendancy over the carriers of their commodities was the steadfast aim and accomplishment of the earliest of the oil men. Pursuit of this course almost brought about their everlasting downfall. There were 1,462 separate evidences of this in that same number of illegal rebates that led to the Landis fine in 1911. In view of the admitted importance of this essential element of transportation, it s only fitting that an investigation such as this should give due attention to the methods and practices by which the artifices of transportation and the sway of volume traffic still are being used to serve the ends of those who seek to strengthen and preserve a too-dominating position in the industry.

My contribution to the evidence being assembled by this Committee deals with the breaches of the commerce laws. I shall try to answer the following questions:

Is monopoly discoverable in the transportation practices of any sizable portion of the petroleum industry?

To what extent are present day major oil company traffic practices likenable to those of fifty or sixty years ago?

Have the apparent approval and protection of commerce regulatory bodies been availed of, designedly, to imply official sanction of practices these commissions would not knowingly condone?

By way of part answer to these queries, and as introduction to much of that which follows, I submit what was stated to me last March in the offices of the federal Bureau of Internal Revenue. The subject of discussion was the federal 4% transportation tax collectible on the charges of two of the largest pipe lines carrying gasoline. I was discussing these with a Bureau official charged with the duty of checking, verifying and auditing such tax payments. Always, he said, when he questioned the accuracy of these returns and tax payments, he was

told they were in strict conformity with the pipe line rate tariffs long on file with the Interstate Commerce Commission and bearing the Commission's registration numbers. Thus, he said, were his questions answered with what purported to be complete reassurance that all was as it should be.

The president of Socony-Vacuum Company, before a sub committee of the House Judiciary Committee, on June 21, this year, said: "Inasmuch as pipe line rates are under the control of the Interstate Commerce Commission, no new and extraordinary legislation is necessary." In less than a month thereafter, in July of this year, the Interstate Commerce Commission wrote me that it had examined all the tariffs of the gasoline pipe line companies above referred to, and had found them faulty and deficient in practically every essential particular. At least three of the faults listed by the Commission in its letter bear directly and vitally on the matter of the rates and charges collected by these pipe line companies for a number of years, and therefore on the revenues from which the pipe line transportation tax was payable to the United States Government. Eight days later I received a second letter from the same Interstate Commerce Commissioner. From it I now quote: "This will acknowledge your letter of July 26. In my letter of July 20 it was intended to convey to you the thought that our Bureau of Traffic would carefully examine all the tariffs not only of the two pipe line companies named but of others, to see whether any violations of tariff rules or unlawful features were embraced therein. Such examination is now being made, and wherever any provision of such tariffs appears to be unlawful or in violation of a tariff rule, the matter will be taken up with the publishing carrier with a view to bringing about correction."

Later I shall go into detail as to these findings of the Commission, but two general remarks are relevant here: first, that the Interstate Commerce Commission is in the clear, and without cause for censure, for the existence of this long standing illegality of tariffs bearing its registration numbers, and, second, that when such a condition as it now discovers has resulted in enormous evasions of federal tax revenue, it is obvious that the financial sinews of the perpetrators, for concertedly fighting and stifling competition, have literally been strengthened from the nation's treasury itself. A direct public interest is thus at once disclosed, aside entirely from the interests of competitors.

As to the first of these two relevant remarks, viz., the lack of blame attaching to the Interstate Commerce Commission: Let me remind you that its appointed task is to administer the act which brought it into existence some fifty years ago. I would remind you, also, that the commodities clause of that act does not preclude any one oil company or a group of oil companies from owning and operating a common carrier pipe line. True, this is quite at variance with the accepted principle that a common carrier should not be interested financially, directly or indirectly, in the ownership of the commodities it transports. When that principle, however, was incorporated into the Interstate Commerce Act, to become effective in 1908, the wording then adopted by Congress restricted its application to railroads only. The wording of the amending act, as originally drawn, had made it apply to all common carriers. Just how this became changed, in the nick of time, to specify railroads only, need not be a matter solely of conjecture. Pipe lines, therefore, may be and of course are legally owned and operated as common carriers by the oil companies who ship through them. For obvious commercial reasons, these common carrier pipe lines are incorporated as separate companies, but no secret is made of the identity of the oil companies owning the stock of such pipe line companies. All the stock of 97% of all the pipe line companies is owned by 20 integrated major oil companies.

As in the case of all interstate common carriers subject to the Act to regulate commerce, pipe line companies must file tariffs with the Interstate Commerce Commission. This they do, and the Commission follows its routine course with them. Except in cases where some special cause is shown, all tariffs of all common carriers, and all changes in previously established rates, must be noticed to the public for thirty days prior to their becoming effective. Where no objection is lodged by those interested, the tariffs or new rates automatically become effective at the expiration of that period.

Thus in its seasoned wisdom and experience, the Commission depends upon the constantly opposed interests of shippers, on the one hand, and carriers, on the other, to direct its attention to any instances of rate inequalities or any other matter requiring its adjudication. Well over 200 volumes record its decisions in thousands of such instances.

Now, when one company or a group of companies own or control the common carrier which transports their products, it must of necessity be a rare instance

indeed when any of them questions or contests the rates and tariff provisions devised and decided upon by them themselves. And if no one else does this, irrespective of what may be the reasons impelling others thus to refrain, the tariffs and their contents can continue uncontested and uncorrected indefinitely. Such of course is the inevitable result where the carrier is owned outright by the companies that use its facilities, and here is just another seed bed where monopoly is nourished.

It is now my purpose to proffer evidence of major oil company transportation practices and activities, in such restraint of trade and such control of competition, as may warrant inclusion among the data this Committee is now assembling.

The United States crude oil production fluctuates around one billion barrels a year. In 1935 it was 993 millions. In the same year we imported 32 million more, but sent away to foreign shores and Canada more than 51 million 42-gallon barrels. The remaining 974 million barrels of crude had use here in hundreds of refined forms, including flits and physics. By far the largest item on the list was petroleum gasoline, with just under a half a billion barrels.

Twenty billion gallons of gasoline alone to be moved each year. Measured in 8,000 gallon railroad tank cars, this is 2½ million carloads. And that is only the finished gasoline. Small wonder that an industry measured by such volume figures can be the piper of its own transportation tunes. No secret is made of the identity of the freely-referred to integrated companies, nor of the fact that at least 80% of the entire petroleum business is handled by scarcely a score of these integrated corporations. My only concern here is with the transgressions in the transportation field through the unified control of so huge a traffic volume. Railroads, singly and in groups, strive actively for a share of this. Too often the methods of their striving are, with good reason, secret. Here is a sample only recently brought to light. I refer to and shall now read a letter addressed personally to the higher executives, six presidents and seven vice presidents of thirteen major oil companies by the president of the Association of American Railroads. On January 17, 1935, he wrote:

> R: Memorandum of discussion regarding transportation of Petroleum Products in the Southeast.
>
> Based upon discussion with Mr. Cleveland, it is my understanding that in view of certain conditions to be later referred to herein you have stated that in the southeast you will discontinue trucking from your water terminals or refineries to the interior for distances in excess of 40 to 50 miles (which is the approximate limit of the customary filling station distribution), whether service by truck for greater distances is being performed by outside agencies or by trucks of your Company, and that you will simultaneously discontinue delivering these products to dealers' or Buyers' trucks at your water terminals or refineries.
>
> Railroads in Southeastern Territory, in order to make this arrangement an effective one and to stabilize the distribution of these products, will use their best efforts to bring about a readjustment of interterritorial rates on these products into Southeastern Territory on the same rate level as fixed by the Interstate Commerce Commission within that territory, it being recognized that in order to make this change in freight rates it will be necessary to obtain relief from outstanding orders of the Interstate Commerce Commission. Railroads in Southeastern Territory will reform as rapidly as seems advisable existing leases covering railroad property used for filling station purposes; they will discourage future leases of this character and will in no case make such leases on terms more favorable to lessees than under the reformation plan.
>
> It is suggested that above arrangements become operative May 1, 1935, unless some other date as early as possible will better suit your necessities. It is understood that the above arrangements will continue in effect until your Company or the railroads involved decide that they are not working satisfactorily, in which event sixty days advance notice of the termination of these arrangements will be given and upon receipt of such notice from any company I will promptly notify the other interests involved.

Note that this letter includes, among other things, the confirmation of an agreement on a plan to injure, if not destroy, the business of all independent oil dealers and all those engaged in motor trucking of petroleum products in the entire Southeastern portion of the United States. Any other legalistic connotations of this letter I leave to others to discern. As to the traffic connotations, a word or two may be illuminative:

The letter dealt with a situation that had been having attention since the preceding November, with the self-styled "representatives of the Oil Industry" (exclusively majors) had submitted to the railroads a proposal for establishing a scale of rates to apply on shipments to a distance of 250 miles from the seaboard terminals, the scale being based on the lowest cost per mile obtainable for handling bulk petroleum products whether by company-owned motor trucks, contract carrier trucks or common carrier trucks. Between November, 1934, and January, 1935, the vice president of the Association of American Railroads had approached each major oil company operating in the Southeast to explain the deal or bargain in contemplation.

Besides the matter of wholesale motor carrier elimination and the cessation of deliveries to purchasers' own trucks at the seaboard terminals, the bargain dealt with two other phases of railroad operation and policy. One of these is treated in the sentence reading: "Railroads in Southeastern Territory, in order to make this arrangement an effective one and to stabilize the distribution of these products, will use their best efforts to bring about a readjustment of interterritorial rates on these products into Southeastern Territory on the same rate level as fixed by the Interstate Commerce Commission within that territory, it being recognized that in order to make this change in freight rates it will be necessary to obtain relief from outstanding orders of the Interstate Commerce Commission." This may need clarification. These major companies move their gasoline by pipe line and by tankers to the great seaboard terminals in the Southeastern states. The Mississippi River being the dividing line, the only other form of interritorial transportation open to competitors is by rail from the Southwestern refineries to the Southeastern States. The rate level fixed by the Interstate Commerce Commission within the Southeastern area was generally higher than the interterritorial rate level established under its orders then effective. It was these interterritorial rail freight rates, already high enough to block off most independent competition in favor of the majors using pipe lines and marine tankers, that the Association of American Railroads pledged its "best efforts" to increase, after getting relief—that is, permission, to depart from outstanding orders of the Interstate Commerce Commission.

As for the agreement regarding reformation of existing leases covering railroad property used for filling station purposes, this of course was a promise to increase the operating costs of trackside dealers who, after entering into bona fide lease arrangements with the railroads, were passing on to the public the savings resulting from their trackside location, and thus disturbing the otherwise well-controlled retail price level, for gasoline.

The response and aftermath to this letter from President Pelley are illuminating. The majors, fearful of the possibility of being charged with conspiratorial activities, decided among themselves to suggest that thenceforth the advancement of the plan should be separately handled with and by the interested companies. Notwithstanding this purpose to "avoid the appearance of evi ", we find Vice President Cleveland, on April 26, 1935, addressing, in one letter, eleven integrated majors to inform them of the tangible results of a conference held with them at the Commodore Hotel in New York City on April 16. This letter from Mr. Cleveland has since been used in evidence in North Carolina in an anti-trust suit under the statute of that state brought by an independent oil concern which, with others, alleged the "deal" had dealt a body blow to their business. The letter from Mr. Pelley, so far as I know, has never had employment in any similar fashion, probably because of ignorance of its existence on the part of interested parties.

Another significant after-development of the Pelley letter in the situation with which it dealt was the round-robin reminder, in February, 1936, from a Southern rail carrier's vice president to six major oil companies, reading in part: "You will recall that during the course of the conference between yourselves and representatives of some of the North Carolina railroads in New York on December 20, 1935, an understanding was reached that if any legal obstacles in the way of carrying out the proposed schedule of rates were encountered, you gentlemen would render what assistance you could in the furtherance of the program." After stating that a new tariff which had been compiled was the subject of a restraining order issued out of, and set for hearing, in the North Carolina Superior Court, in compliance with a petition by three motor carriers of that state, the letter closes with the suggestion "that you attend or be represented at the hearing if you can possibly arrange to do so." The hearing was completed March 14th, 1936—and the petition of the motor carriers was dismissed.

Economists may differ as to whether the common carriers who serve the majors preferentially are their willing or their unwilling victims. The traffic man, however, knows that the bait, the lure of shipping volume is the explanation of the

situation. The oil majors continuously and jointly use "big business" leverage to accomplish their ends, whether by cajolery or threats. Typical of the latter method, we find a large Oklahoma major, in November, 1936, warning the Missouri Pacific and Rock Island systems as follows; with the distribution of the usual copies among the other integrated majors plainly indicated by the list of major names on the warning letter: "In consideration of all these facts, please be advised that if your lines now by definite notice establish the rates sought by these Arkansas refiners, and thereby discard and disregard the interests and welfare of other refiners in the Mid-Continent field such as this company, we can then only view your action as unfriendly to us and will naturally be compelled to bear it in mind in the future."

On page 19 of the National Petroleum News of September 6, 1939, is the account of a letter from the spokesman of some independent shippers addressed to seven railroads. The magazine says: "In his letter to the rail executives, he stated that rails have admitted one reason they do not reduce rates is that they fear 'what the major oil companies will do' to them." The roping of the railroads has continued through the years. The lure of volume traffic has been constantly employed.

There is enough and more than enough such testimony recorded to the same effect, but it avails nothing to leave this as an accepted, inevitable, and uncorrectable situation. Much of it is peculiarly open to almost immediate correction. The comparatively easy way of remedying this one extensive evil is by vigorously invoking the commerce statutes. Such recourse goes quickly, directly to the heart of the offenses, and is as available, of course, to the Government itself as it is to private interests. Opposing industries, also, may and should use it. Evidence is not wanting that fuel industries other than that of oil are suffering devastating inroads financed in large part by the money-gains resulting from the concessions and preferences procured or dragooned from carriers by the integrated oil companies, in defiant violation of the commerce statutes. Other conspiratorial, monopolistic activities that do not violate the commerce statutes must have other treatment than that which I mention, and doubtless other improved technique should be devised, but certainly the first and simplest steps toward a solution of the entire problem are those which existing, well-settled and well-tried laws provide for, and for the prompt enforcement of which smoothly working governmental agencies are instantly ready and at hand.

Within the present month, the forfeiture provisions of the Elkins Amendment have been invoked in a suit against the Aluminum Company of America and others. Concessions amounting to $500,000, in the form of free rent of warehouse space, are alleged in this suit for three times that amount. Manifestly, concessions such as these are rebates or drawbacks reducing the amount of the freight charges. The fact that routine procedure of investigation by the Interstate Commerce Commission readily procured the data for action by the Department of Justice shows the ease with which a host of similar actions could be instigated where practically identical offenses by major oil companies are known to exist. On all sides, such concessions are to be found.

At least a hundred thousand storage tanks dot this country. Every hamlet has one; the cities have their dozens. Railroads are prevailed upon, volume traffic being the weapon, to lease their land for the tank sites and loading racks at rentals less than "nominal". Certainly "free rental" is less than nominal, and many, many easements, facilities and facility sites of real commercial value are leased without any charge whatever. While these rentals range from nothing, $5, $10 and $12 a year to several hundreds, and in a few cases higher for the choicest sites in congested metropolitan centers, they never seem to bear any reasonable relationship to fair criteria of business property valuations. A survey of nearly 500 sites shows an average annual rental of less than $29. A similar survey of twice that many sites, many of them in the most populous urban centers of the country, shows an exceedingly mean annual rental of $84 per site ($7 a month). Separated from its traffic assuring attributes—and the Commerce Act says it should be—each of these sites is a business property. Through the tanks on many a site rented for from $1 to $5 a month are handled half a million gallons of petroleum products annually—say, 60 carloads, worth at least $50,000.

Private owners leasing their premises for such purposes ask and receive rentals related to or commensurate with the volume of business done, and lessees pay rents accordingly, in the expected and ordinary course of business. Not so with carriers. Leaning ever toward the majors, they disregard all such criteria, seeking only to find some technically tenable basis for acceding to the lease specifications proposed by these volume shippers.

Admittedly this Committee cannot concern itself with the needless sacrifice of railroad revenues. That concerns the bond-and-share-holders of the railroads, and possibly the R. F. C., but to bring the matter within the purview of this Committee's inquiry, take the typical case of a small dealer in a large city in Florida. He states, and these are his own words: "We tried diligently to get a location from the railroad company, but was refused repeatedly. The local traffic manager at the time told me that if he would permit us to use railroad property for an oil bulk plant, he would lose his position with the railroad company, and I should not ask him to do it." My informant names seven major companies located in his city, and I again quote his own words: "All have tanks on railroad property and are paying little or no annual rentals." What this man did, with this line-up arrayed against him, was to buy a piece of land 50 X 75 feet, which he says has a conservatively estimated rental value of $25 a month. One major, he knows definitely, pays the railroad $5 a month for a much better location. This, gentlemen, I repeat, is a typical case.

Once the rails were practically the only transport medium; now they are practically auxiliaries to pipe lines. Ninety-thousand miles of pipe lines, 97% major owned, take a huge amount of revenue from the rails. But they cannot reach everywhere, and so there is still a huge amount of rail business left, even though there is no compensating increase of independent all-rail business to replace major business gone over to the pipe lines. The reasons for this are not hard to find. No great search is needed to discover that a number of the pipe lines, and particularly the common carrier pipe lines carrying gasoline, are only the seed bed of major monopoly.

For while pipe lines are the marvelous product of American ingenuity, the economics they effect don't reach the Americans. Gasoline in a goodly portion of this country is sold on the basis of the all-rail freight rate. The Minnesota jobber and dealer and consumer, for instance, are made to pay the all-rail freight rate from the Oklahoma, Kansas or Texas refinery even when the gasoline came seven-eighth's of the way through a pipe line and only the final one-eight in a railroad tank-car. Settlement for the gasoline is ingeniously contrived and concertedly adhered to on the basis of the freight charge that would have been collected if the movement had been entirely in a tank car. And here again, strangely, we find the rail carriers a pliant tool of monopoly. For with the aid of these carriers the pipe line profits are still further increased. The lower the rail charge can be hammered down for that final one-eighth of the distance, and the higher the all-rail rate can be kept up for the entire distance, the greater the profits, naturally, of the pipe line carrying the gasoline seven-eighths of the distance. And since the common carrier pipe line is owned by the majors, that much more do the pipe line profits tend toward dominance by the monopoly.

These, of course, are generalities. However, lest "hammering down" and "keeping up" rail freight rates, is adroitly practiced by the oil majors, seem far-fetched or baseless accusations, recall the man I mentioned whom the National Petroleum News, only three weeks ago, quoted as saying: "The rails have admitted one reason why they do not reduce rates is that they fear 'what the major oil companies will do' to them."

I wish now to give some of the transportation mechanics of the matter, and to describe wherein, only recently, I have uncovered grave infractions of the commerce statutes and referred them to the Interstate Commerce Commission.

These concern the two largest gasoline carrying pipe lines of the country. One of these is 100% owned by one of the largest majors. This major, with some seven others, owns the other of these two great pipe line companies. These eight major companies reported total assets at the end of 1936 of more than $2,700,000,000, or close to a third of the assets reported by 20 major companies. The two gasoline pipe lines in question have a combined mileage of a little over 2,800, according to the statistics report of the Interstate Commerce Commission of February, 1939. Between them these two pipe lines carried in 1935, 25,600,000 barrels of gasoline, or a little over half of the total of 50,198,000 barrels carried by all the companies then reported by the Interstate Commerce Commission. Let us see now how eight companies representing one-third of the asset strength of the entire group and shipping more than half of the entire amount of gasoline moved by all refiners through the pipe lines, conducts this one part of its transportation affairs.

As stated, these are common carrier pipe lines. They are interstate, and therefore under the jurisdiction of the Interstate Commerce Commission. They must prepare and file rate tariffs with that Commission, just the same as every interstate railroad and every interstate motor carrier must. Since about nine years ago, when they started operation, they have filed their tariffs with the

Commission. Note that I said "filed." Then remember that I said earlier in these remarks that the fact that they had been filed with the Commission and bore its registration numbers signified no approval of them by the Commission. It merely means that nobody protested them during the 30 day public notice period between their issuance date and the date of their effectiveness. Here I quote from a letter I received from Commissioner Clyde B. Aitchison of the Commission dated the 19th day of last month.

> "When tariffs are filed with the Commission in conformity with its rules and become effective without protest, the rates therein become lawful rates but do not stand as approved by the Commission."

The Commission's published rules for size and weight of paper, and arrangement and layout of pages, were complied with, naturally. These pipe line tariffs, after all, are prepared by the highest paid traffic department heads in the country, each man a recognized expert in the field of transportation. The tariffs put out under their supervision should be right. If they are not, it is not by accident.

I have for some time been interested in these tariff issues. They are all on file in the public tariff library of the Commission, along with hundreds of thousands of others. I had been particularly prompted to look at them after reading the minutes of some meetings of the Traffic and Transportation Committee of one of these two pipe line companies, the one that is owned by eight major companies. This committee is composed of the traffic managers of the eight owner oil companies. These men decide how much they, as a common carrier, shall charge themselves as shippers. They also decide just how they, as a common carrier, will collect these charges from themselves, as shippers. And in order to keep their common carrier common only to themselves, they, as shippers, draw up their tariff regulations, fix a grotesquely large minimum of 2,100,000 gallons for any one shipment, and otherwise see to it that no one else shall be able to use this pseudo-common carrier with them. Here, in their entirety, are the minutes of a meeting of these transportation experts held to decide on changes in their tariffs which they then considered advisable. Following them is a clarification of some of the terms that may be unfamiliar to others than traffic men.

KANSAS CITY, MO.,
October 24, 1934.

It is the unanimous opinion of the Traffic and Transportation Committee that the operations of the Pipe Line should be in strict conformity with published tariffs on file with the Interstate Commerce Commission, this to be accomplished,—

1. By transferring the ownership of the storage tanks at the pipe line terminals, from which shipments are made to points by rail, to the proprietary companies; or

2. By revision of the rules and regulations of the tariffs to permit of free storage in the tanks owned by the Pipe Line Company for a limited period of time.

It is the opinion of the Committee that if transfer of ownership of the tankage to the proprietary companies can be made without involving the the proprietary companies in tax difficulties, that this is the most desirable way of bringing about a correction of our difficulties.

The Committee feels that it is unwise at this particular time to make any revision in the tariffs for the following reasons:

1. The Interstate Commerce Commission has just recently instituted an investigation of pipe line rates and practices and has made parties to such investigation all pipe lines which have reduced their rates within the last six months, and it is felt that a revision of Great Lakes Pipe Line tariffs, as will be necessary in order to provide for free storage at pipe line terminals, may cause the Interstate Commerce Commission to make Great Lakes Pipe Line Company a party to its investigation.

2. Should the Great Lakes Pipe Line Company provide free storage at its pipe line terminals, the railroads might take similar action and place in their tariffs rules which will permit of the holding of gasoline in railroad terminals for a like period of time.

3. It is also possible that the Pipe Line Company might be forced to spend a very considerable amount of money to provide tankage for the handling of gasoline that might be offered to the Pipe Line Company by shippers other than the proprietary companies in view of the free storage at the pipe line terminals.

4. There is also the possibility that the federal Tax Authorities might insist upon the assessment of storage charges on gasoline which has heretofore been held in the tankage of the Pipe Line Company and the payment of transportation tax on such charges.

I do not wish to extract meanings from these minutes that are not there, but it may help if I now give you a little background and explain the subject matter of this meeting. For deliberations on this subject matter continued for more than a year. It therefore was not something inconsequential. Moreover, as the minutes say, there were reasons against publishing any changes at all right then. There was the risk they might be drawn into a pipe line investigation then pending to which they had not been made party.

At any rate, the tariff changes were not made effective until March, 1936. In the intervening year and more there was ample opportunity to consider them from every angle, both among themselves as the drafters of them and among their respective company officials and departments. When the changes in this part of the tariffs finally emerged in printed form in March, 1936, both the spirit and the letter of the new provision represented the consensus and united desire, intention and purpose of eight huge refiners actuated by a common, identical process of thought.

The tariffs were filed, as I say, with the Interstate Commerce Commission and the changes thus conjointly worked out among the companies have been in effect since March, 1936. Nobody had protested them, during the 30 day period of public notice, prior to March 2, 1936, and they just automatically became effective. Yet in July of this year, within two weeks after I had directed the attention of the Commission to the defects I had noted, I had answer from the Commission that an examination by it had developed four specific non-conformances with well known rules of the Commission, not only in the provisions of the part amended in March, 1936, but in other parts of the tariffs as well. The Commission also stated, in the stately language of governmental offices:

"The attention of the carriers will be directed to these four features with a view to having the tariffs corrected. In the event of failure of the carriers to make appropriate correction, the matter will be given further consideration."

Let us look at the tariff provision with which a part of the criticism of the Commission deals, and which, as I stated before, had had more than a year's collaborative consideration, before being published. The wording of this provision is the same in all tariffs of the pipe line company. It is the revealing expression of the decision, as I said before, as to *how* these companies, as a common carrier, shall collect charges from themselves, as shippers. The provision is designated "Item 60" in the tariffs.

Before the change published in 1936, the item read as follows;

ITEM 60: Gasoline will be received for transportation under the terms of this tariff only when shipper or consignee has provided the necessary facilities for receiving said gasoline as it arrives at terminal points.

The obligation of the carrier is to deliver at the destination station the quantity of gasoline to be transported, less deductions, or plus additions account temperature corrections, and such delivery may be made upon twenty-four hours' notice to the shipper or consignee, who shall receive said gasoline from the carrier with all possible dispatch into tanks to be provided by the shipper or consignee. Said tender of gasoline for delivery may be made at the terminal point at a rate not exceeding 24,000 barrels (42 U. S. gallons per barrel) per day of twenty-four hours. A demurrage charge will accrue on all gasoline at the expiration of twenty-four hours' notice in the sum of one-eighth of one cent per barrel (42 U. S. gallons per barrel) covering gasoline not received as tendered by the carrier, and shall be charged for each day's delay or fractional part thereof until the gasoline is received.

The salient points to note here are that tanks must be provided by the shipper or consignee (the refiner), and that he can be made to receive his gasoline into his tanks at the rate of not exceeding 24,000 barrels a day, or pay demurrage if he does not take it as tendered.

The proposed changes in this Item 60 were first circulated among the interrelated companies, for discussion and comment, as follows:

ITEM 60: The obligation of the carrier is to deliver to the shipper or consignee at the destination station the quantity of gasoline previously delivered to the carrier by the shipper or consignee for transportation, less deductions, or plus additions account temperature corrections.

The carriers will provide without charge for a period not to exceed—— days, tankage at terminal points for gasoline received through their lines to the extent that their facilities at such terminal points will permit. After the expiration of such free period the carrier shall give—— days' written notice to the shipper or consignee demanding the removal from carriers' tanks of any remaining gasoline held in said tanks for more than the length of time stated, and if said gasoline is not thereupon removed as tendered by carriers within ——days after notice, Sundays and holidays included, demurrage charges will accrue at the rate of ——¢ per barrel (42 U. S. Gallons per barrel) and such charge will be made for each day's delay or fractional part thereof until such gasoline is removed from carriers' tanks.

Note that in this preliminary or tentative draft, the change starting to take shape is that the storage tanks shall be provided by the carrier, without charge, for a period of time to be decided on.

The wording finally adopted and published to become effective in March, 1936, and as it has read since is:

ITEM 60: The carriers will transport and deliver at the terminal point with reasonable diligence the quantity of gasoline as tendered under Item 15, less deductions or plus additions account temperature corrections, and will furnish such reasonable facilities, including tankage in transit and at terminal points as are required for such transportation or will facilitate the efficient operation of its lines. The consignee shall receive and remove from carriers' tankage without undue delay the gasoline which has been transported to terminal point for its account. In case any of said gasoline has remained in said tankage for period of 60 days, carrier shall send written notice by mail or telegraph to the consignee stating the quantity of gasoline so remaining. Unless such gasoline is removed from carriers' tankage facilities at the close of a 90 day period, counting from the time the gasoline reached the terminal point, it shall be subject thereafter to a demurrage charge of one-eighth of one cent per barrel per day until removed.

There is a lot nore here than that which meets the eye. For reasons I shall give at once th reafter, I recommend re-reading the following portion of the above, with special attention to the words now in italics. "The carriers will transport and deliver at the terminal point with reasonable diligence the quantity of gasoline as tendered under Item 15, less deductions or plus additions account temperature corrections, *and will furnish such reasonable facilities, including tankage in transit* (note this word "transit") *and at terminal points* as are requisite for such transportation or will facilitate the efficient operation of its lines." Then the consignee is to receive and remove *from carriers' tankage* without undue delay, the gasoline which has been transported to terminal point for its account. And demurrage shall begin to run on any of its gasoline still unremoved after a free storage period of 90 days is up.

I asked you to note the word "transit" when reading the words "will furnish such reasonable facilities, including tankage in *transit* and at terminal points. This one appearance of the word "transit", and that a fleeting, incidental or runningly casual mention of it, marks the only time the word is used. Until 1936 it did not appear even that one time. Now, why do I stress this so emphatically? Because this word "transit" and the knowingly premeditated and concerted conspiracy that conceived the application, to these gasoline pipe line shipments, of the tariffic principle it, the word "transit" connotes, have brought to the major oil companies many, many millions of illegal dollars, millions in illicit profits, and I know not how many hundreds of thousands of dollars by way of evaded taxes—all at the expense of the Government and of the public and at the expense or damage, yes, even extinction, of hundreds of competing independents.

Strong talk, that: Without sound and eminent authority, that is all it would be—talk. First, then, my authority. The Interstate Commerce Commission, in its letter of July 20, 1939, names the following vital tariff-fault as the first of its amazing findings:

"(1) the tariffs do not specifically authorize transit."

That is language the meaning and import of which every traffic man will instantly understand. For he knows, or he will be reminded, that the Commission said in Red River Oil Company vs. Texas and Pacific Railway, 23 I. C. C. 438: "The transit privileges and charges thereunder on interstate or export shipments must be clearly and definitely shown in the tariffs published and filed in con-

formity with the requirements of Section 6 of the Act." He also knows, or he will be reminded, that the Commission said in Swift & Company vs. Chicago, Burlington & Quincy Railroad, 50 I. C. C. 233: "Transit rights must be specifically authorized by tariff provision; they cannot be inferred." He knows or he will be reminded, that the Commission said again in Armour & Company vs. Delaware, Lackawanna & Western Railroad, 101 I. C. C. 337: "Transit rights must be specifically authorized by tariff provisions. It is our further conclusion that the outbound billing should show full reference to the inbound billing." (That last sentence should be kept in mind; it will apply to the next one of the tariff faults found by the Commission.)

I have given these quotations of the Commission's own language as to the necessity for specifically authorizing transit in tariffs intended to provide for it. Many others could be given, for it is a cardinal, elementary tariff requirement.

Now, what is "transit"? Here is how it was defined in Baltimore and Ohio Railroad vs. United States, 24 Fed. Sup. 734: "A 'transit' is a stopover privilege granted by a carrier by which a break de facto in the continuity of carriage of goods is disregarded, and two legs of a journey are treated as though they were covered without interruption and united into a through route for which a joint rate can be published."

In other words, transit, as that term is used in connection with regulation under the Interstate Commerce Act, is the practice, authorized by tariffs, of shipping a quantity of a specified commodity from point A to point B, there subjecting it to some manufacturing or commercial process or storing it, and then reshipping it to destination C at a rate less than the combination of local rates to B and then beyond B which would be applicable in the absence of the transit privilege.

The distinguishing feature between transit shipments and others (*non-transit*) which are subjected to similar process at a point intermediate to the ultimate destination of the product is that the transit shipments move from the point of origin to ultimate destination on the through rate in effect at the time the shipment originated, plus any transit charge; but if no transit arrangement exists, the material moves from the point of origin to the intermediate point at which it is subjected to one of the many processes, or storage, on the local rate in effect when the shipment left the point of origin, and moves from that intermediate point to destination on the local rate in effect when the shipment left the intermediate point. That is, the non-transit shipment is treated as two unrelated movements, while, when the terms of a legal transit tariff are applicable, the transit shipment is considered a through movement.

Many important industries owe their very existence to transit privileges accorded by the carriers. In the case entitled In re Transportation of Wool, Hides and Pelts, 23 I. C. C. 151, the Commission said: "Transit privilege in many cases is beneficial. When it can be applied without discrimination, it results in the diffusion of business in giving rival communities the relative advantages to which they are entitled, and which can be accorded them in no other way, and, generally speaking, in the application of lower transportation charges. The commercial operations of this country have, in many instances, grown up under the exercise of transit privileges which could have been developed in no other way." And in Blodgett Milling Company vs. Chicago, Milwaukee and St. Paul Railway Company, 23 I. C. C. 448, the Commission said: "Transit privileges are of benefit to carriers, dealers and the public." Obviously, these gasoline pipe line transit privileges were not "of benefit to carriers, dealers and the public." They were of benefit to the carrier of course, which is to say the shippers, the refiners, who own it. They were of untold benefit to some dealers—to eight major oil dealers—but of untold detriment to hundreds of competing dealers. While as for the public? The public paid exactly as much as if there had not been any pipe line.

For the public, bear in mind, were forced to pay the full all-rail freight rate from the faraway refineries. The jobber pays it first, of course. The all-rail freight rate is separately, and I may say prominently, shown on the invoices he receives. He knows of course that the gasoline comes by rail only from the nearest pipe line outlet, but—that's the system, and he pays it, or he gets no more gasoline from his major supplier, at a price on which he can stay in business. If he squirms, and tries to shift to another major supplier, he finds he can't even get from the second one the jobber margin he formerly had from the first one. Recent and remembered trials in Madison, Wisconsin, threw some light on all this.

Finally, if still not on relief, the jobber has some independents still left with whom he may open negotiations. It won't be a major-named and major-advertised gasoline, but he knows, even if his customers did not, that there was a 7 or 8 to 1 certainty that the major-named gasoline he sold before wasn't refined by

the major whose name it bore. At one pipe line terminal in Iowa nine majors draw from just three storage tanks of gasoline. But that is a story for later relation.

To the independent with whom he now negotiates, the all-rail freight rate is a stark reality, not a useful and profitable fiction of invoice make-up. The independent, whatever his refinery economies, cannot consistently or continuously beat the refinery costs of the majors. And he cannot get the rails, because of major domination, to consent to rates that still would leave them a full and proper profit on his freight business.

And so we get back to the "transit" we left a moment ago. By the use of this, or the misuse of it, as the Interstate Commerce Commission now finds, the pipe line majors can always pick up full and plenty to meet any price ideas the independents may have, and still pay themselves rather handsome pipe line dividends in these hard times.

But the spurious transit privileges are not the only tariff faults cited by the Interstate Commerce Commission, though they are at the root of most of them. Each in itself, however, is a blistering criticism and a sweeping condemnation. Each one separately establishes this common, inescapable deduction: These were not mistakes of inexperience. Rather were they the conspiratorial perpetration of an expert and barefaced effrontery.

The second criticism reads:

> (2) the "policing rules" are inadequate.

The Commission puts the words "policing rules" between quotation marks because the expression is one which, again, is familiar to practically all informed traffic men. Traffic privileges must be heavily guarded. They accord the benefits of lower rates than would apply except for the transit privilege. Therefore, they must not be available to shippers or to shipments which are not entitled to them. When one man ships from point A to point B, at which point there is a properly authorized transit privilege, it is the general rule that he pays the full rate from A to B. When, later, the shipment moves on to C, he pays, not the rate that is the regular local rate from B to C, but only the remainder of the rate from A all the way through to C. This remainder, or balance of the through rate, is called a "proportional," and there are various kinds of proportionals and various ways of providing for their use. Sometimes proportionals are published for use to the transit point, and there are other variations we need not enumerate here. Suffice it that any authorized transit privilege which includes the use of proportional rates must be restricted and controlled so that no shipper shall, for instance, be able to have his shipments charged a proportional rate from the transit point when they have not earned that privilege and should therefore be assessed the higher local rate.

Hence need for policing by the carrier, lest it be furnished the opportunity of intentionally or inadvertently rebating a part of its lawful charges. These policing rules are what the Commission alluded to in the case I cited before of Armour & Company vs. D. L. & W. R. R., when it said: "It is our further conclusion that the outbound billing should show full reference to the inbound billing."

The policing rules in any lawful transit tariff are most explicit, and since these pipe line tariffs contain no policing rules at all, they would seem to represent the acme of inadequacy in that regard.

The next tariff fault found by the Commission deals with the proportionals or proportional rates published in the tariffs. These are provided for in the following language, the same language and the same item numbers being common to all the tariffs:

> ITEM 40: PAYMENT OF TRANSPORTATION AND OTHER CHARGES.—The consignor shall pay the transportation and all other lawful charges accruing on gasoline tendered for shipment, based on the local rate prevailing to the terminal points at which delivery is made. If so required, all charges shall be paid in advance or before release from storage. Gasoline accepted for such transportation shall be subject to a lien for all such charges.
>
> ITEM 45: Upon presentation by consignor to the Great Lakes Pipe Line Company of the original paid destination freight bill or other documentary evidence satisfactory to Great Lakes Pipe Line Company, showing date of shipment from terminal point within one year from date of receipt of gasoline for transportation, refund of charges on a like amount of gasoline received by the Great Lakes Pipe Line Company will be made, equal to the difference between the local rate paid to the terminal point through which shipment moves and the proportional rate to such terminal point applicable on traffic destined to rail destinations covered by this tariff in effect on date of reshipment from terminal point.

To explain the application of these two items, it seems best to illustrate with an actual example. Suppose, therefore, that gasoline from a refinery at, say, Muskogee, Okla., has been sent through a pipe line from that point to Minneapolis, and that within a year after its original shipping date a tank carload of it is sold to a customer at Stillwater, Minn. Item 40 in Great Lakes Pipe Line Company tariff bearing the distinguishing number I. C. C. 66 effective May 15, 1938, provides that charges for the pipe line movement to Minneapolis shall be "based on the local rate prevailing to the terminal point at which delivery is made." The local rate in this case, from Muskogee to Minneapolis, as published in this tariff, was $1.27½ per barrel. This local rate is a constant, being the equivalent of the prevailing all-rail freight rate from the refinery origin point on the pipe line to Minneapolis. Whenever the rail freight rate changes this pipe line constant or local rate is changed to correspond. This same tariff contains a list of every railroad destination in Minnesota where gasoline may be received. Opposite each station name is the proportional rate to apply when a tank car of gasoline is sold and shipped from the Minneapolis terminal of the pipe line to that station. Opposite Stillwater appears the proportional rate of $1.01 per barrel. In accordance, therefore, with item 45, "upon presentation by consignor to the Great Lakes Pipe Line Company of the original paid destination freight bill" (i. e., the railroad freight bill for the movement to Stillwater) "or other documentary evidence satisfactory to Great Lakes Pipe Line Company, showing the date of shipment from terminal point" (i. e., Minneapolis) "within one year from date of receipt of gasoline for transportation, refund of charges on a like amount of gasoline received by the Great Lakes Pipe Line Company will be made equal to the difference between the local rate paid to the terminal point through which shipment moves" (i. e., $1.27½ per barrel) "and the proportional rate" (i. e., $1.01 per barrel) "to such terminal point applicable on traffic destined to rail destinations" (in this case, Stillwater) "covered by this tariff in effect on date of reshipment from terminal point."

Thus, for every barrel of gasoline in the tank-carload shipped to Stillwater, the pipe line company refunds to its shipper (which also is one of its owners), from the charges originally collected, 26½ cents, or just under 20.8% of those original charges. The customer at Stillwater finds on his invoice from the major oil company a freight chrge figured on the flat all-rail freight rate from Muskogee, Okla., to Stillwater.

The percentage of the refund from the pipe line company to its shipper, which in this case is close to 20.8%, varies in accordance with the proportional rate set opposite the name of the ultimate destination. In many cases the refunds exceed 60% of the originally collected local charges. For instance, Phillips Pipe Line tariff I. C. C. 46, effective June 24, 1938, published the local rate from Borger, Texas, to Des Moines, Iowa, of $1.06½ per barrel. The proportional rates in this tariff range from 40¢ to 65¢ per barrel. When proportional rates such as these are subtracted from the constant local rate of $1.06½, the resulting refunds to the shipper-refiner from originally collected charges based on such local rate range from 38.9% to 62.4% of such originally collected charges.

Variable proportionals are not unprecedented under certain transportation conditions, but widely divergent and variable proportionals such as published in these pipe line tariffs in connection with an unauthorized transit privilege are unprecedented. The net result of them, it should be clear, is that the pipe line carries a given barrel of gasoline for 40¢ if it later goes to one railroad destination and charges 65¢ to carry another barrel of gasoline if this second barrel later goes from the same terminal to another railroad destination, although both barrels moved precisely the same distance in the pipe line itself, and easily may have been parts of the same shipper's 50,000-barrel shipment from his refinery which first was charged by the pipe line at $1.06½ per barrel.

The bafflement of the Treasury Department agents auditing tax payments on such a chaotic system of transportation revenues may now be understood. As stated before, the explanation given, when such an agent questioned any phase of the net amount of revenue on which tax had been paid, has been that the charges were strictly in conformity with tariffs on file with the Interstate Commerce Commission. With these tariffs now found essentially erroneous and faulty, earlier tax payments based on them may well be recalculated, with enormous gain to the national Treasury.

The Commission's findings regarding these proportional rates deals with them from another angle. It should be remembered that, from the Commission's viewpoint, the rectification of non-conformances with its well understood rules and regulations is its first concern. That the corrections it demands will be made, it must assume until it learns the contrary. That this will involve a

serious rearrangement of major oil company policies is, likewise, not its concern. Quite aside from tariff reasons, there is sound basis for arguing that any proportionals at all should be inapplicable on this traffic. Consideration of this, however, must be approached from other angles. Pending the outcome of such consideration, the Commission can at least, and forthwith, demand conformance of the tariffs with its established regulations. Its third finding reads:

> (3) the proportional rate to be applied should be that in effect on the date of movement from point of origin.

This refers to the final nine words of Item 45 above, and to their counterpart in the provisions of the Phillips Pipe Line tariffs. Here again, an amazing effrontery is curtly castigated. Briefly explained, a shipment en route must move to its final destination subject to the rate or rate factors effective on the date of movement. If an increase or a decrease in any factor of a through rate becomes effective through tariff change, it cannot affect the charges collectable on the shipments already en route. Rule 55 of the Commission's Tariff Circular 20 contains the rule:

> A combination rate for a through shipment must be treated as a unit from point of origin to final destination, and the rate applied must be the combination of the factors in effect on the date the shipment was accepted for transportation at point of origin. All of the conditions applicable to each factor in such combination rate for through shipment in effect on the date the shipment was accepted for transportation at point of origin must be observed and cannot be varied as to that shipment during the period of its transportation to final destination.

Every junior rate clerk in every traffic department in the country knows this rule by heart. Whenever the published date of effectiveness of a rate change of any kind is imminent, shipments are timed accordingly. If rates are going up, get everything possible en route before they go up. If they are coming down, on a certain date, hold shipments back until then. Nowhere is this practice more thoroughly known nor more calculatingly applied than in the highly trained and well informed traffic departments of the major oil companies. Any further elaboration of so elementary a principle is unnecessary. That which cannot be overstressed here, however, is that the insertion, in the entire series of tariffs of two huge pipe line companies, of a provision the absolute opposite and antithesis of a rule know to and adhered to by every other carrier and by every shipper in the country, including themselves, cannot be dismissed as merely inexpert and accidental. Guilty conspiratorial knowledge and deliberately concerted planning in defiance of the statutes must be imputed to the perpetrators of so flagrant a deception. Any other deduction would be an affront to the lowest intelligence.

In its fourth tariff-fault finding, the Commission cites another error of omission. The omitted provision is one that is commonly found in tariffs dealing with transit on shipments that have moved interstate to the transit point. The institution of a legal transit privilege, as we have seen, presupposes a theoretical continuity of movement up to, through and beyond the point where the privilege is in force. It follows, in line with this theory, that even though the outbound shipment beyond the transit point may be to a point within the same State with the transit point itself, it still is a part of an earlier interstate movement inbound to the transit point, and, unless physical circumstances are operative to negate this theory, the second movement also is interstate because theoretically joint with the first.

In most States there are two kinds of freight rates in effect, those for use on movements interstate in character and those for use where movement is confined within the borders of the State. Where there are joint rates or common arrangements or through billings published between the common carriers participating in the movement of shipments accorded some privilege in transit, the Commission demands that transit tariffs provide that in the event that two kinds of rates are published beyond the transit point, it is the interstate rates that must be used. This is the broadly general rule invoked by the Commission in its fourth criticism of these pipe line tariffs, when it says:

> (4) the tariffs should contain specific provision for collecting the interstate rates beyond the transit point.

While this criticism, as I have stated, would be merited in the case of tariffs covering true transit and where joint rates, common arrangements or through billings between carriers were effective, there is reason to believe that uniformity considerations have dictated the Commission's finding rather than comprehensive

analysis of the particular factors here presented. The precise point has never had presentation to or formal consideration and decision by the Interstate Commerce Commission, but there is a preponderance of informed and official opinion favoring the standpoint that, in the admitted absence of any published common arrangements between the pipe lines and the rail carriers serving the pipe line terminals, and in view, also, of the purposes for stoppage of the gasoline at the pipe line terminal, there is a severance of continuity that disassociates the inbound and the outbound movements and leaves them unrelated to each other. The subject has had separate and exhaustive consideration in recent weeks by the State Commission staffs in Minnesota and Iowa. In both States, like conclusions have been reached, and these are contained in the following summaries quoted verbatim from an opinion-brief prepared in the office of the Commerce Counsel for one of the two States.

1. The tank farm at Des Moines is the only known destination when the gasoline starts its journey from the refinery.
2. An intention that the gasoline will eventually move beyond Des Moines is at the most an assumption which can not govern the movement after the gasoline has once been delivered to the tank farm.
3. The gasoline absolutely comes to rest when it is mixed with the mass at the tank farm and at that point loses its interstate identity.
4. There are no common arrangements or agreements in existence between the common carriers as to any reshipment from Des Moines to the various Iowa points.
5. There are no joint rates or through billings published by the common carriers to the final destination in Iowa.
6. There is not a continuous movement or flow of commerce of any one shipment from the refinery to the final destination in Iowa.

On this point, also, it is informative to read the following expression of opinion from the Interstate Commerce Commission last October, at which time I submitted some major oil company acknowledgments of gasoline orders that had been filled from the terminal of the pipe line at Minneapolis. The acknowledgments were so worded as to seek to establish the interstate character of the rail shipments. The following opinion, though official, is informal:

> "I am returning herewith two acknowledgments of orders covering shipments of two carloads of gasoline, which were apparently shipped from Minneapolis, Minnesota to Stillwater, Minnesota, which accompanied your letter of October 17.
>
> I am not prepared to state any definite opinion as to whether these shipments were intrastate or interstate, and about the only comment that I do care to make is that according to the acknowledgments which were enclosed with your letter, it would seem to me that these were purely intrastate shipments."

Lest doubt be raised as to the interest of this Committee in the foregoing, again the evidences of concerted decisions and integrated activities are in point. Again, primarily, we find these working adversely, even illegally, against the independent competitors and also the public. Secondarily, we again find the rail carriers assisting as willing tools of monopoly.

For despite the omission from the pipe line tariffs of the provision mentioned by the Interstate Commerce Commission in its fourth tariff criticism the rail carriers, practically without exception, have collected the interstate rates, wherever they were higher than the intrastate rates, on gasoline shipments ex pipe line and destined to points within the same State with the pipe line outlet station or terminal. The bearing this has on major oil company affairs will be developed later, but that it is a factor of importance to them is clearly shown by the following excerpt from the minutes of a meeting held June 23, 1938, of officials of the eight proprietary oil companies owning the Great Lakes Pipe Line:

> "Another feature which might become annoying to the shippers from Kansas City (Fairfax), Kansas, is that some of the rail carriers have rulings from their Legal Departments to the effect that intrastate rates are the lawful rates applicable on traffic moving from our terminals regardless of the fact that it originates by pipe line from interstate points."

This of course had distribution among all concerned, of the same kind as the confidential round-robin exchange of letters in May, 1937, at the time the Interstate Commerce Commission announced a decision which these majors believed might be used against them. This decision dealt with motor tank truck move-

ments from the terminal in Nebraska of a private gasoline pipe line carrier. Since the tank trucks never left the State, although they carried gasoline which had moved by pipe line interstate, the Interstate Commerce Commission disclaimed jurisdiction of the trucks under the Motor Carrier Act, holding such motor carrier operation was exclusively intrastate.

On excerpt from the exchange of major correspondence dealing with this decision will suffice:

> "While the ruling is indicative of the Commission's trend of mind, it cannot be considered applicable to rail rates from our terminals. If, in the future, the rail rates become an issue, the case will no doubt be used in support of contentions that the movement beyond the terminal is intrastate. This may also be used by State authorities to support their contentions that certain taxes should be collected, etc."

It is this feature of taxes so frequently cropping up that points to the perfidy to the public interest of these pipe line majors. Taxes, at first thought, seem unrelated to transportation. Not so here. Again transportation is the puller of the chestnuts from the fire. The majors are not interested if the railroads collect a few hundred thousands extra by applying interstate freight rates when lower intrastate ones should be used. What the majors are concerned about here, obviously, are the various State, county and municipal taxes from which exemption can be claimed so long as they can keep alive the fiction that their shipments are still in interstate commerce. In the attainment of this vital objective, the railroads might even be described as subsidized at public expense.

Even the State gasoline taxes are not free from tampering. An independent tank carload of gasoline, or an independent truck load, becomes subject to the State tax the instant the State is entered. Elaborate official facilities even check approaching movements of gasoline before they actually reach the State lines. Railroads must report all tank carloads they bring across the line. Until this year the State gasoline tax laws applied in the same way to pipeline-imported gasoline. With a mystifying but not unique unanimity of action, the legislatures of Minnesota, Iowa and Nebraska, at their sessions opening in January of the present year, passed amending acts. Now major gasoline brought into the State by pipe line and barge is not subject to the State gasoline tax until it has been loaded into railroad tank cars. With three months' storage furnished under the pipe lines' yet uncorrected tariffs, and proportionals operative for a year, what does this amount to?

On April 19, 1939, the National Petroleum News said "the equivalent of 543 cars of gasoline . . . moved by barge from . . . to the Twin Cities in November, 1938, and about 1785 cars by pipe line." At a low average of 5,000 gallons to the car, this one month's total imports of major gasoline was at least 11,640,000 gallons. Minnesota, last year, could at once collect 4¢ a gallon tax on this, $465,000; in fact, it would do so this year if the gasoline belonged to any one but majors. Under the new law, however, the majors have the use of and the State loses the interest on these deferred gasoline tax payments for as long as the gasoline is in storage. The same is true, of course, in Iowa and Nebraska, all three States having large terminals of these pipe lines.

Storage-in-transit is not the only transit privilege illegally accorded by these pipe lines. The gasoline shipped through them is unfinished material, or base stock. At the terminals it is blended, mixed, ethyl-leaded and colored to meet the respective refiner's specifications, before or as it goes into the tank cars. All of these are transit privileges. Not one of them is authorized, provided for or even mentioned in the tariffs. A more devastating wrecking of the Commerce Act and its regulations is hardly conceivable.

Without the most elaborate and explicit tariff authorization and provision therefor, no rail carrier would dream of permitting shippers, on all shipments, and while they were still in carrier's possession, to do these things, and still maintain the theory of continuing through movement. Independent all-rail gasoline shippers must complete the manufacture of their product before it starts, a carload of not more than 10,000 gallons at a time. The integrated pipe line major shipper, with his adroitly high tariff-minimum, ships at least 2,000,000 gallons at one time over an allegedly common carrier that not only stores his gasoline for him free until sold but allows him to finish it en route—all in a manner that illegally breaches all common carrier regulations imposed on other carriers. What is worse, no terminal has tankage for storing for each shipper the minimum amount requisite under the tariffs. All therefore, draw on a common supply of base stock received indiscriminately from any of the several major refineries. This is

substitution of the most flagrant sort, which never is allowed at proper transit points without full authorization and provisions in the tariff's policing rules for registering a bona fide change of ownership.

A fully qualified witness at the Congressional hearings last May on House Bill H. R. 2318 testified that at the pipe line terminal at Iowa City, Iowa, nine different companies load nine different brands of gasoline out of the three pipe line storage tanks there. Dealing as I am, in this statement, with transportation and tariff matters, I still can include, as germane, the subject of gasoline exchanges. Most certainly is the subject germane to the work of this Committee, for it is definitely monopolistic in all essential particulars. Insofar as these gasoline pipe line operations are concerned, the exchanging or swapping of gasoline at the terminals is illegal, in that no tariff provision even mentions it.

I submit that the practice known among the majors as "Even Exchange" of gasoline is illegal in a variety of other ways. It is born of monopoly. It further strengthens monopoly. In numerous sections of the country, most of the gasoline sold there, under any one of a number of heavily advertised brand names, was not refined by the refiner whose name it bears. At least a dozen majors have at least a hundred of these secret even-exchange agreements with one another. The major refinery at one point refines the gasolines for many of the rest. Or the scattered water terminals of several major refiners will exchange gasoline with one another, each supplying the needs of the others in its territory.

Thus, with the combined forces of integrated monopoly, well-controlled sections of the country are partitioned off. Not a dollar changes hands, though each agreement involves gasoline measured by millions of gallons.

Under the heading "What Is GASOLINE?" the Consumer, official organ of the Consumers Division, advises gasoline buyers to "be wary of paying any significant differential in price because the pump has a familiar trademark blazoned conspicuously on it. Though crude petroleum varies greatly from field to field. gasoline itself, when it comes from the refinery, is fairly uniform in quality. . . . In the attempt to save transportation costs there is a rather general swapping of gasoline by the major companies behind the scenes, and the trade name under which gasoline is marketed gives an apparent uniformity to a very real chaos of source."

Cutting the distribution hauls to a short radius around each exchange point costs American railroads more than $30,000,000 annually, according to an elaborate and careful survey submitted to the Association of American Railroads by one of the best known transportation authorities of this country. He advanced to them a plan to retrieve this lost revenue to the rails. After some six weeks' conferences and deliberations, the Association, as might have been anticipated, decided not to be identified with the plan, lest, as they said, the integrated majors retaliate in a far greater degree.

The Federal Trade Commission might well interest itself in the perfected ingenuities of artful advertising claims of individual refinement improvements which hoodwink an enormous public at the same time they strengthen the bulwarks erected by the majors against independent competition in the many areas where these even-exchange agreements are operative.

Procuring publication by pliable but misguided railroads of depressed motor competitive rates where no motor truck competition exists or can exist is another profitable artifice of the integrated gasoline pipe line majors.

The Interstate Commerce Commission prohibits the making of proportional rates between motor carriers and pipe line companies or any other carriers subject to Part I of the Commerce Act. Rule 31 of the Commission's Tariff Circular No. 20 begins with these unequivocal words;

> "Carriers subject to Part I of the Interstate Commerce Act may not file proportional rates to or from junction points with motor carriers for application on traffic to or from points on the lines of such motor carriers."

Yet the proportional rates in these pipe line tariffs still are and always have been the published coefficients for the refunds to the major shippers of as much as 60% of the local charges first collected, always provided that shipment beyond the terminal is by rail. It follows, therefore, that no motor trucks may be employed on shipments ex-pipe line, hence the threat of motor competition is invalid, and these hundreds of motor competitive rail rates now effective at points where the only traffic is ex-pipeline, are unjustified. Even at pipe line terminal points where motor trucking of other than ex-pipeline gasoline would not involve the use of these pipe line proportional rates—as, for instance, from refineries or barge terminals also located at such points—the now-published motor competitive

rail rates are indefensible and should not be available or applicable to the pipe line gasoline, since, as to this, there neither is nor can be any motor competition.

The willing but unwarranted dissipation, in this way, of a huge amount of railroad revenues would be no concern of this Committee were it not for the obvious fact that these monopolistically forced reductions of the rail rates beyond the pipe line terminals illegally increase, in accordance with a well-ordered plan, the pipe line proprietary majors' carrier earnings. These, it will be remembered, are always based on the through all-rail freight rates from the refinery points to the ultimate destinations of the gasoline. The forced depression, therefore, of the rail rates applicable beyond the pipe line terminals correspondingly increases the share of the through all-rail freight rates accruing to the major pipe line shippers.

The Phillips Pipe Line Company published its tariff I. C. C. 45, effective February 8, 1938, containing rates on gasoline from Borger, Texas, to Jeff Station, Missouri. This tariff is an exception to the other pipe line tariffs in that it contains proportional rates applicable only when shipment beyond the terminal in Missouri is by motor truck. A local rate to Jeff Station of 90¢ a barrel is shown, and the single proportional rate of 37¢ was published as the coefficient of refund from such local 90¢ rate, applicable to each of some two hundred Missouri destinations named in the tariff. The refunds thus provided for were to be made on proof of shipment from the terminal by motor truck. Here, then, was an entire tariff contravening the Commission's Rule 31 set forth above, though covering operations to all parts of the State.

The citations of most of the matters dealt with herein, lead to but one conclusion: The large traffic volumes of large single companies have been combined, without restraint, to accomplish the results which could only be expected. Wheedled or coerced, great railroads, even associations of railroads, have been cat's-paws for the combine. Other factors have contributed, but always and throughout the "big stick" has been transportation. Commerce laws, for the most part ample, have not been the deterrent they could have been because the invoking of them, whether by independent competitors or by rebellious carriers, has been competently thwarted.

Monopoly even has not hesitated, at times, to cry "Monopoly!" regarding the projected moves of a dwindling competition. Pipe line majors whose tariffs set a high minimum for single shipments equal to 250 carloads actively oppose applications for trainload rates limited to 100 carloads, lest these aid a rival medium of transportation. Always in such cases they cite precedent decisions directed toward the control of monopoly. The Louisiana & Arkansas Railway Lines in case 2610 before the State Commission in Louisiana, sought authority, in 1936, to establish a rate on gasoline moving in trainloads of not less than 100 cars per shipment. The brief of four pipe line major protestants said in part: "Trainload rates can be used by only a select few . . . In no instance has the Interstate Commerce Commission permitted a carrier to establish different rates on trainload than on carload lots, holding that the very principle involved is discriminating, and, therefore, unlawful."

The rate in that case was on gasoline. Any application, however, for a trainload rate on any commodity prompts vigorous opposition by the majors. This present year has seen protest made to the Interstate Commerce Commission by a prominent major oil company against the establishment of a rate on blackstrap molasses, minimum 1800 tons—or about 38 tank carloads. Protestant alleged, according to the Traffic World of June 3d last, that "there was every reason to believe that such quantity minimum would immediately spread to other commodities moving in volume, such as petroleum products, lumber and its products . . . etc., which would immediately affect marketing conditions and create an economic upheaval that would be far-reaching . . . Such quantity and minimum weights . . . in the case of shipments in tank cars where the cars might be owned or leased by the shipper, would permit such shippers to hold such cars on railroad leased tracks without demurrage," etc.

Compare this dire possibility with the long existing actuality of common carrier gasoline pipe lines wholly major shipper owned, providing for their shippers, without lawful tariff authorization, three months' free storage in transit, in addition to other transit privileges equally unauthorized by their tariffs.

Earnest investigation should not be misled by what may seem, or be speciously described as, merely necessary bookkeeping. Payment of the higher local rates by the gasoline pipe line shippers, followed by refunds to them by the carriers they own, is no innocent legerdemain. The baffling hocus-pocus has one constant aim throughout—to control competition by the dexterous use of an always

flexible system of transportation charges against the inelastic system of all-rail rates which, at great pains on the majors' part, is kept the only system available to independent rivals.

Exhibit No. 1294

Statement by the Federal Trade Commission—As presented to the Temporary National Economic Committee

A Survey of Controversial Marketing Practices in the Petroleum Products Retail Industry

A SURVEY OF MARKETING PRACTICES (LEGALITY OR ILLEGALITY UNDETERMINED) PRESENTLY OPERATING IN THE PETROLEUM PRODUCTS INDUSTRY, PREPARED BY THE FEDERAL TRADE COMMISSION IN COOPERATION WITH THE TEMPORARY NATIONAL ECONOMIC COMMITTEE

CONTENTS

A. Survey

A SURVEY

Controversial Marketing Practices in the Petroleum Products Retail Industry

I. SCOPE OF THE SURVEY

This survey of controversial marketing practices in the petroleum products industry was projected after several conferences with officials of the Department of Justice in which determination was made that the Department would undertake the presentation to the Temporary National Economic Committee of all monopolistic and trade restrictive problems and questions relating to competition in production, transportation, and refining; the Federal Trade Commission to assume responsibility with respect to the same considerations as they relate to marketing petroleum products beyond the refinery stage.

No particularized investigations of any oil companies, major or otherwise, have been specifically undertaken in the pursuit of these objectives, the Commission files being already replete with informal and formal cases, applications for complaint and petitions, on every subject hereinafter discussed.

The Commission has investigated and assembled the facts with respect to complaints received. Notably, the Commission has recently issued an order against United States Rubber Company prohibiting over-riding commissions, and against the American Oil Company for illegal price discrimination. Copies of these orders are herewith identified as "Exhibit A."

Investigation into some of the practices is going forward in regular course within the Commission, concurrently with the preparation of this survey.

Generally, the survey has had as its objectives a determination of:

(a) The character and extent of questionable and perhaps illegal marketing practices in the oil industry.

(b) The fixing of primary responsibility for the existence of such practices.

(c) Relative importance of the several claims or charges of unfair competition.

(d) Recommendations as to what can or should be done to abate undesirable and monopolistic practices within the industry; to suppress unfair competition and adequately protect the public interest.

II. BRIEF HISTORY OF THE COMMISSION'S WORK WITH THE OIL INDUSTRY

Almost since its organization, the Federal Trade Commission has had constantly before its complaints, charges and questions with respect to the petroleum industry. The sources of these complaints have been from every level of the industry except the major oil companies. Prior to 1926, the Commission developed complaints as received and took appropriate action. Some of the cases went to the courts, notably, the so-called pump and tank cases (*Sinclair Refining Company* v. *Federal Trade Commission*, 261 U. S. 463).

In a period antedating 1926, several inquiries were made to test the manner in which the Standard Oil Company decree of 1911 was being carried out (*United States* v. *Standard Oil Company of New Jersey*, 221 U. S. 1).

In 1926, the Congress passed a resolution directing the Commission to investigate:

> "First. The very material advances recently made in the price of crude oil, gasoline, kerosene, and other petroleum products and whether or not such price increases were arbitrarily made and unwarranted.
>
> "Second. Whether or not there has been any understanding or agreement between various oil companies or manipulations thereby to raise or depress prices, or any conditions of ownership or control of oil properties or of refining and marketing facilities in the industry which prevent effective competition.
>
> "Third. The profits of the principal companies engaged in the producing, refining and marketing of crude oil, gasoline, kerosene, and other petroleum products during the years 1922, 1923, 1924, and 1925, and also such other matters as may have bearing upon the subjects covered by the provisions of this resolution."

The Commission responsively reported to the Congress by what is now Senate Document No. 61, 70th Congress, first session.

Beginning in 1928 and extending up until 1932, the Commission ordered and carried out an extensive investigation of gasoline marketing practices with particular reference to the then popular "lease and agency" method of distribution. The facts developed by this investigation were under serious consideration at the time of the passage of the National Industrial Recovery Act and the subsequent taking over of the industry by the Secretary of the Interior under the provisions of the especially enacted Petroleum Code. After the Schechter decision in June 1935, the Commission currently disposed of applications for complaint by immediate reference to the examining division for regular investigation and disposition.

In 1936, the Attorney General requested the Commission to inquire into the possible violation of a certain decree, *U. S.* v. *Standard Oil Company of California et al*, entered September 15, 1930, against the principal marketers of gasoline and petroleum products on the Pacific Coast. This investigation was duly undertaken, and the Commission reported to the Attorney General on April 2, 1937.

In all, the Commission has made the following briefly described oil industry inquiries for the Congress and as many as are now in print (exclusive of file copies) are herewith identified as "Exhibit B-1 to B-5," inclusive:

> "*Gasoline.*—Pursuant to the direction of the President, February 7, 1924, the Commission made an investigation of the sharp advance in gasoline prices, reporting in the form of a letter of Submittal and Summary of Report on Gasoline Prices in 1924, dated June 4, 1924, (typewritten or mimeographed

copy, 24 pages). It was referred by the President to the Attorney General and reprinted in the Congressional Record of February 28, 1925, beginning on page 5158."

"*Gasoline.*—Pursuant to Senate Resolution No. 109, Sixty-third Congress, first session, and Senate Resolution No. 457, Sixty-third Congress, second session, adopted September 28, 1914, the Commission investigated gasoline prices for the year 1915 and published its Report on the Price of Gasoline in 1915 (224 pages) as of April 11, 1917, in which were discussed the high prices of petroleum products and how the various Standard Oil companies had continued to maintain a divisions of marketing territory among themselves. The Commission suggested several plans for restoring effective competition in the oil industry. A preliminary report was issued April 10, 1916, entitled Investigation of the Price of Gasoline, and printed as Senate Document No. 403, Sixty-fourth Congress, first session (15 pages, out of print)."

"*Gasoline Importation.*—This inquiry, made pursuant to Senate Resolution No. 274, Seventy-second Congress, first session, July 16, 1932, had its inception in complaints filed against four major oil companies operating in Detroit, alleging price discrimination due to zoning divisions in which different retail prices prevailed. The Commission transmitted its report to the Senate February 27, 1933, in the form of a letter entitled Importation of Foreign Gasoline at Detroit, Mich. (3 pages), printed as Senate Document No. 206, Seventy-second Congress, second session."

"*Gasoline Prices.*—This inquiry was made pursuant to Senate Resolution No. 166, Seventy-third Congress, second session, February 2, 1934. The Commission investigated the causes of increased gasoline prices during the 6-month period preceding the resolution's adoption and the effect of such increases on gasoline consumers. The report revealed an average price increase of 2 cents about the time of the effective date, September 2, 1933, of the petroleum code. Following subsequent declines the average net increase was 1.04 cents. The report submitted May 10, 1934, entitled Gasoline Prices, was printed as Senate Document No. 178, Seventy-third Congress, second session (22 pages)."

"*Petroleum—Foreign Ownership.*—This inquiry was made pursuant to Senate Resolution No. 311, Sixty-seventh Congress, second session, June 29, 1922. The acquisition of extensive oil interests in this country by the Dutch-Shell concern, and alleged discrimination practiced against Americans in foreign countries, caused this inquiry which developed the situation in a manner to promote greater reciprocity on the part of foreign governments. The report, entitled Report of the Federal Trade Commission on Foreign Ownership in the Petroleum Industry (152 pages) was transmitted to the Senate February 12, 1923."

"*Petroleum Industry.*—This inquiry was made pursuant to Senate Resolution No. 31, Sixty-ninth Congress, first session, June 3, 1926. A comprehensive study covered all branches of the industry from the ownership of oil lands and the production of crude petroleum to the conversion of petroleum into finished products and their distribution to the consumer. The report described not only the influences affecting the movements of gasoline and other products, but also discussed the organization and control of the various important concerns in the industry. No evidence was found of any understanding, agreement, or manipulation among the large oil companies to raise or depress prices of refined products. A report entitled Petroleum Industry—Prices, Profits and Competition (360 pages), was transmitted to the Senate December 12, 1927, and printed as Senate Document No. 61, Seventieth Congress, first session." "Exhibit B–1."

"*Petroleum, Pacific Coast.*—The great increase in the prices of gasoline, fuel oil, and other petroleum products on the Pacific coast led to this inquiry, made pursuant to Senate Resolution 138, Sixty-sixth Congress, first session, July 31, 1919. It disclosed that several of the companies were fixing prices. Reports entitled Pacific Coast Petroleum Industry: Part I. Production, Ownership and Profits (276 pages) and Part II. Prices and Competitive Conditions (262 pages), were transmitted to the Senate April 7, 1921, and November 26, 1921, respectively, with a summary." "Exhibit B–2."

"*Petroleum—Panhandle.*—This inquiry into conditions in the Panhandle (Texas) oil fields was make on a motion of the Commission of October 6, 1926, and in response to requests of crude-petroleum producers. The reduction of prices late in 1926 as complained of was largely a result of difficulties of handling and expenses of marketing this oil because of peculiar physical

properties, according to the report, which was entitled Report of the Federal Trade Commission on Panhandle Crude Petroleum (19 pages), issued as of Feburary 3, 1928."

"*Petroleum—Pipe Lines.*—This inquiry made pursuant to Senate Resolution No. 109, Sixty-third Congress, first session June 18, 1913, was begun by the former Bureau of Corporations, and showed the dominating importance of the pipe lines of the great midcontinent coil fields. It also pointed out that the pipe line companies, which were controlled by a few large oil companies, not only charged excessively high rates for transporting petroleum, but also evaded their duties as common carriers by insisting on unreasonably large shipments, to the detriment of the numerous small producers. Report on Pipe Line Transportation of Petroleum (467 pages, out of print), was transmitted to the Senate February 28, 1916." "Exhibit B–3."

"*Petroleum Prices—1920.*—Pursuant to House Resolution No. 501, Sixty-sixth Congress, second session, April 5, 1920, a short inquiry was made into the high prices of petroleum products. The report of the Commission pointed out that the Standard companies practically made the prices in their several marketing territories and avoided competition among themselves. Various constructive proposals to conserve the oil supply were made by the Commission. The report, entitled Advance in the Prices of Petroleum Products, (57 pages), was transmitted to the House June 1, 1920, and printed as House Document No. 801, Sixty-sixth Congress, second session." "Exhibit B–4."

"*Petroleum—Wyoming.*—This inquiry was made on motion of the Commission. Complaints of several important producing companies in the Salt Creek oil field led to the investigation. The report covered the production, pipe-line transportation, refining, and wholesale marketing of crude petroleum and petroleum products in the State of Wyoming. The report, entitled Report of the Federal Trade Commission on the Petroleum Industry of Wyoming (54 pages, out of print), was issued January 3, 1921."

"*Petroleum—Wyoming and Montana.*—This inquiry, made on motion of the Commission, resulted in a special report directing the attention of Congress to conditions existing in the petroleum trade in Wyoming and Montana. Remedial legislation was recommended by the Commission. The report, entitled Petroleum Trade in Wyoming and Montana (4 pages), was dated July 13, 1922, and printed." "Exhibit B–5."

Concurrent with these activities, the Commission in 1929, after hearing approved Trade Practice Conference rules for the conduct of the petroleum products industry. These rules were revised as of August 10, 1931, and again after hearing, were rescinded as of February 24, 1937. During the latter part of 1937, the Trade Practice Conference Division of the Commission undertook certain negotiations with the industry generally and several meetings and conferences were held at which the Division attempted to develop fair trade practice rules satisfactory to the several attending interests. No rules acceptable to the Commission and to the industry were finally approved.

It is a related fact that questions with respect to marketing practices, price of gasoline, fuel oil, lubricants, and other controversies within the industry or between the industry and the public, have recently been or are the subject of state investigation by at least four states, namely New York, Pennsylvania, Washington, and Michigan. In New York State, a legislative committee functioning in its second year, has undertaken to determine the cost of manufacturing gasoline; the necessity for limiting the number of stations in any given locality, compulsory grading and other questions having to do with the marketing of gasoline and other petroleum derivatives.

The Pennsylvania commission, created on the initiative of the Governor of the State, has sought to determine not only the same questions as raised by the New York commission, but also is instructed to make a finding and a recommendation as to whether or not the marketing of petroleum products within the commonwealth is public in character, and whether it should not be so declared and regulated by an appropriate state agency. Neither the New York nor Pennsylvania commission has finally reported upon its work. The Federal Trade Commission has not concerned itself with the referred-to State investigations and makes reference to them here only as evidence of widespread and serious interest in petroleum products marketing problems.

III. THE PETROLEUM AND PETROLEUM PRODUCTS INDUSTRY

The petroleum industry was, in 1935, the fifth largest industry in the United States. In 1936, there were produced within the territorial limits of the country 1,098,516,000 barrels of crude oil, 42,770,000 barrels of natural gasoline, 2,502,000 benzol, resulting in a total domestic production of 1,143,094,000 barrels. The best figures available indicate that of this production 129,561,000 barrels were sold in export. The same year, this export total was offset to the extent of importations aggregating 56,818,000 barrels. In 1937 crude production was 1,279,160,000 barrels, 49,177,000 barrels natural gasoline, and 2,790,000 barrels of benzol, indicating an over-all production for that year of 1,331,127,000 barrels. Exports aggregated 67,234,000, and imports equalled 27,484,000 barrels. In 1938, crude production was 1,213,254,000 barrels, 50,317,000 barrels natural gasoline, and 1,699,000 barrels of benzol, a total production for the year of 1,265,270,000 barrels. Exports aggregated 77,273,000, and 22,761,000 barrels were imported. This impressive production was consumed within the territorial limits of the United States, principally as gasoline, fuel oil, lubricants, greases, naphtha and distillates.

The structure of the industry has at its base some 4,350 individuals and companies producing crude petroleum. The output of these crude petroleum operators is processed by some 435 refineries into more than 300 petroleum derivatives.

This statement is only concerned with that part sold as gasoline, lubricants and fuel oil. The following figures indicate the volume of business done in each:

	1935	1936	1937	1938
	Barrels	*Barrels*	*Barrels*	*Barrels*
Gasoline produced at refineries	457, 842, 000	504, 811, 000	558, 949, 000	555, 850, 000
Lubricants produced	27, 853, 000	30, 927, 000	35, 321, 000	30, 826, 000
Gas Oil and Distillate Fuel produced	100, 235, 000	125, 906, 000	146, 206, 000	151, 774, 000
Domestic demand:				
Motor fuel	434, 810, 000	481, 606, 000	519, 352, 000	521, 657, 000
Motor Lubricants [1]	11, 382, 000	12, 246, 000	12, 840, 000	12, 548, 000
Gas Oil and Distillate Fuel Oils	86, 028, 000	103, 757, 000	116, 841, 000	116, 564, 000

[1] Bureau of Mines Reports.

Again, this inquiry has sought to compile no information with respect to the sales of fuel oil made to large industrial accounts, railroads, steamship lines and other large users of Nos. 5 and 6 (sometimes called Bunker C). In the same manner, no attention has been given to that class of lubricating oil generally sold to railroads and industrial users of oils of similar type. The report does concern itself with gasoline as the same is produced and marketed for sale and distribution as motor fuel. Lubricants are those ordinarily and usually sold to automobile owners and small industrial users. Fuel oils are Nos. 1, 2, 3 and 4, ordinarily purchased by householders and very small industrialists. Hereinafter, all reference to the commodities gasoline or lubricants or fuel oil is limited as to meaning as immediately above.

The industry concerned is said to be "a thirteen billion dollar business" and in 1937 it paid direct taxes in a sum approximated at $1,500,000,000.

IV. CRUDE PRODUCTION AND SALE

It is a matter of common knowledge that asphalt base crude petroleum is produced principally in California, and in Texas, Oklahoma, Arkansas, Kansas, and Colorado. The Pennsylvania crude field produces a different type of petroleum generally characterized as paraffin base oil. Some of the principal production companies on the Pacific Coast are, with subsidiaries or affiliates:

Standard Oil Company of California
Richfield Oil Company of California
Union Oil Company of California
Associated Oil Co.
Shell Oil Co.
General Petroleum Corp. of California
The Texas Company

The principal production companies in the Texas field are, with associates and affiliates:

Standard Oil Co. (New Jersey)
Socony-Vacuum Oil Co. Inc.
The Texas Company
Consolidated Oil Corporation
The Shell Companies
Continental Oil Company
Standard Oil Company of Indiana
Skelly Oil Co.
Phillips Petroleum Co.

Production and selling companies in the Pennsylvania field number about thirty. Principal among them are:

The Pennzoil Co.
Wolverine-Empire Refining Co.
Quaker State Oil Refining Corp.
Kendall Refining Co.

Without identifying all companies, there are about twenty companies, popularly called major companies (integrated or as units) engaged in the production of crude petroleum within the territorial limits of the United States. The rest are so-called independents or secondary companies. Of the independents, a high percentage perform no refining operations, merely pumping crude and selling the same either to the majors or in other markets. Practically all of the major production companies operate extensive refineries of their own, and, in some instances, refine gasoline in quantities substantially greater than those which they sell. In other instances they refine less and purchase gasoline from other and oftentimes comparative companies. In complete gasoline tax figures taken from the records of five Northeastern States indicate that the several major companies sell upward of 85 per cent of the total in such States. Dominance, if such it can be termed, is limited or localized in the sense that one major company may be the principal marketing factor in one area and another in adjacent territory, although this is not so much the case now as formerly.

Asphalt base crude is currently selling (published quotations) at 90¢ to $1.00 per barrel above ground, point of production. Paraffin base crude ordinarily commands a premium of about $1.00 per barrel.

Since this report purports to make no analysis and reach no conclusions with respect to production and refining, the brief character of this chapter is justified.

V. PRICES AND PRICE FACTORS BEYOND THE CRUDE STAGE

Dependent upon the breakdown into gasolines, naphthas, fuel oil, lubricating oil and other by-products, a barrel of crude oil produces between $6.00 and $10.00 worth of products as the same are sold at retail. This does not, of course, mean that the spread between the crude price and the total prices recaptured from the sale of all component parts is profit.

In the first place, crude has to be refined; it has to be moved to market and so far as Western and Southwestern production is concerned, this means that the movement must be to the population centers on the East Coast of the country and north inland. This is accomplished by water cargo movements, pipe lines and tank cars. Refineries are at both ends of this transportation. In other words, a large volume of the crude production of the Southwest is refined in Texas, Louisiana, and the other production states. Refining at the other end of the transportation is accomplished in and around New York City, Philadelphia, and Baltimore. Evidence in the possession of the Commission indicates that there is no uniformity in cost of production as between the several companies. There are many factors varying from company to company that affect the cost of producing gasoline.

Among the varying conditions involved may be mentioned the fact that one operator, because of the composition of his particular crude or the limitations of the refining process, may break it down into a very high percentage of gasoline, a relatively small part going into the production of fuel oil or other by-products. Another operator with a different type of crude, may produce a relatively small percentage of gasoline and a relatively high percentage of lubricating oil, greases and other derivatives. Furthermore, the proportion of gasoline obtained from a given type of crude, and the processing cost per gallon of the gasoline, vary with the process used. In consequence of these facts, while it is probably possible

to compute the cost of a gallon of gasoline to the manufacturer thereof, there is not one cost that is the cost of gasoline to all manufacturers; so that, approaching the question as to whether or not the price of gasoline has been unduly enhanced or depressed above or below cost, the Commission cannot now answer with any degree of certainty as to "What is the cost of a gallon of gasoline at the refinery?" as the query is applicable to the industry generally.

True it is that all refineries arrive at and use a theoretical cost figure. But perhaps enough has been stated to clearly show that the figure adopted is an arbitrary one.

A nation-wide comparison of retail prices for regular, branded gasoline (Standard 70 octane rating) shows:

	January 1935		January 1938		Average	
	Price [1]	State Tax	Price	State Tax	Increase	Decrease
	Cents	*Cents*	*Cents*	*Cents*	*Cents*	*Cents*
Alabama	10–13.5	6	12–14	6	1.25	----------
Arizona	11	5	15.5–18	5	7	----------
Arkansas	11–11.5	6.5	14	6.5	2.75	----------
California	13.5–15	3	14–15	3	.25	----------
Colorado	13–15	4	16	4	2	----------
Connecticut	12.5–13	2	11.5–14	3	0	----------
Delaware	12.5	3	11.6	4	----------	.9
Florida	12	7	13–15	7	2	----------
Georgia	12.5–14	6	15	6	1.75	----------
Idaho	18.5	5	18–19.5	5	.125	----------
Illinois	8.7–12.5	3	13.4–14.5	3	3.35	----------
Indiana	9.9–13.4	4	12–15.1	4	1.9	----------
Iowa	10.4–12.7	3	10.2–13.9	3	.5	----------
Kansas	11.5	3	12.4	3	.9	----------
Kentucky	9.5–12.5	5	15	5	4	----------
Louisiana	9.5–11.8	5	16	7	5.35	----------
Maine	13–13.5	4	9.3–16	4	----------	.6
Maryland	12.5–13.5	4	13.5	4	.5	----------
Massachusetts	12–12.5	3	11.6–14.8	3	----------	.05
Michigan	10.5–13	3	15–16	3	3.75	----------
Minnesota	10.4–13.3	3	14.8–15.5	4	3.3	----------
Mississippi	12.5–13.5	6	17	6	4.	----------
Missouri	9–11.9	2	14	2	3.55	----------
Montana	17–19	5	17.5	5	----------	.5
Nebraska	11.9–14.4	4	13.7	5	.55	----------
New Hampshire	9–15	4	15	4	3	----------
New Jersey	11.7–12.4	3	9.9–13	3	----------	.6
New Mexico	13.5–14	5	16.5–18	5	3	----------
New York	7.5–13.5	3	13–14.8	4	3.4	----------
North Carolina	12–13	6	15.9	6	3.4	----------
North Dakota	14–15.2	3	15–16.5	3	1.15	----------
Nevada	16	4	16–25	4	4.5	----------
Ohio	12.5	4	13	4	.5	----------
Oklahoma	12	4	13	4	1	----------
Oregon	15	5	15	5	0	----------
Pennsylvania	7–13	3	9.5–14.5	4	2	----------
Rhode Island	12	2	13.5	3	1.5	----------
South Carolina	11.7–13.9	6	14.7	6	1.9	----------
South Dakota	13.5	4	16	4	2.5	----------
Tennessee	9–14.2	7	13–18	7	3.9	----------
Texas	8–15	4	14–16	4	3.5	----------
Utah	16	4	19	4	3	----------
Vermont	14–14.5	4	15	4	.75	----------
Virginia	12.5–14	5	14.1	5	.85	----------
Washington	15–18	5	15–17.5	5	----------	.25
West Virginia	12.5–13.5	4	14	5	1	----------
Wisconsin	12.8–13.2	4	10–15.7	4	----------	.15
Wyoming	15	4	17	4	2	----------
D. C.	13.5	2	14	2	.5	----------

[1] Per gallon "regular" branded gasoline exclusive of all tax. Data assembled by Federal Trade Commission from state revenue departments.

Long range trend is shown by the following table:

Average service station prices (regular gasoline) in 50 representative cities,[1] exclusive of tax, as reported in the Oil and Gas Journal, January 26, 1939

1928	17.63	1934	13.60
1929	17.91	1935	13.55
1930	16.33	1936	14.11
1931	13.09	1937	14.40
1932	13.30	1938	13.91
1933	12.76		

[1] Birmingham, Phoenix, Little Rock, San Francisco, Denver, Hartford, Conn.; Washington, D. C.; Dover, Del.; Jacksonville, Atlanta, Boise, Idaho; Chicago, Peoria, Ill.; Indianapolis, Des Moines, Wichita, Louisville, New Orleans, Portland, Me.; Baltimore, Springfield, Mass.; Detroit, Duluth, Minneapolis, Jackson, Miss.; Kansas City, Mo.; Helena, Mont.; Omaha, Nebr.; Reno, Nev.; Newark, Albuquerque, New York City, Charlotte, N. C.; Fargo, N. D.; Cleveland, Tulsa, Portland, Ore.; Philadelphia, Providence, Charleston, S. C.; Huron, S. D.; Memphis, Dallas, Salt Lake City, Burlington, Vt.; Norfolk, Seattle, Charleston, W. Va.; Milwaukee, Casper, Wyo.

Profit to the refiners as distinguished from unit price of products, is dependent on many variants, some of which are location of refineries, pipe line facilities, tank ship and tank car ownership. Seaboard markets served conveniently by barge and cargo ships best serve those companies owning such facilities.

It is not possible to draw so accurate a comparison with respect to motor lubricating oil, but some light is thrown on the subject by exploratory investigation in conveniently located points in Northeastern United States, where it has been found that the quart price of this commodity to the public ranges between 20¢ and 35¢ per quart. Generally, an irrational relationship between motor oil prices and gasoline prices is observed.

As to fuel oil, commonly used for heating purposes in the American home and by small industries, there is observed a widely varying and seemingly irrational range of prices. In the northeastern section of the country these prices presently range from 4½¢ to 7¢ per gallon.

VI. THE MARKETING COMPANIES

There are upwards of 228,500 companies and individuals engaged directly in the marketing of petroleum products. Of these at least twenty are so-called major companies; about 430 are independents; there are about 28,000 jobbers or wholesalers engaged in the business and some 200,000 retailers, the definition "retailer" being limited to filling stations and operators of pumps. The major marketing companies are by name:

Standard Oil Company of New Jersey,
The Texas Company,
Cities Service Company,
Socony-Vacuum Oil Company,
Standard Oil Company (Indiana),
Standard Oil Company of California,
Gulf Oil Corporation,
Shell Union Oil Corporation,
Consolidated Oil Corporation,
Tidewater Associated Oil Company,
Atlantic Refining Company,
Phillips Petroleum Company,
Pure Oil Company,
Union Oil of California,
Sun Oil Company,
Mid-Continent Petroleum Corporation,
Continental Oil Company,
Ohio Oil Company,
Standard Oil Company of Ohio,
Skelly Oil Company.

Several of these corporations market through subsidiaries or affiliates, some of which feature brand names other than those owned and exploited by the parent company. A notable example of this is the American Oil Company, a subsidiary of the Standard of Indiana, the Colonial Beacon Oil Company owned by the Standard Oil Company (New Jersey) and operating in its own name sells the trade-marked and branded products of the Standard Oil Company (New Jersey).

The Texas Company carries on its marketing activities as marketing division within the single corporate structure of the company. Generally, however, all of the major companies exploit only their own branded gasoline and lubricants. Contrary to popular understanding, no single major oil company has a preponderant part of the gasoline, lubricant and fuel oil business. A study of the gasoline tax returns [1] of several states establishes that 30 per cent of the total is the largest proportion had by any major company in any state, except Utah, Wyoming, and West Virginia, where the percentages are 61, 40, and 37, respectively. As to over-all percentage, the Standard Oil Company of New Jersey, the largest single company in the group, has less than 7 per cent of the total. At the time of the dissolution of the old Standard Oil Company in 1911, it was shown to have about 78 per cent of the total oil business of the country. Today, the aggregate over-all of the so-called Standard group; i. e., the companies erected by the decree and ordered to compete, is somewhere in the neighborhood of 38 per cent of the total.

Collectively, the major companies above listed have between 80 and 85 percent of the total gasoline business of the country and business done in lubricants and fuel oil probably roughly corresponds with this percentage, although the Commission has no figures on this point.

VII. THE MECHANICS OF DISTRIBUTION

(a) *Gasoline*

Either as integrated units or through the instrumentality of marketing subsidiaries or associated companies, all of the major companies sell gasoline and lubricants as wholesalers; i. e., engage in that transaction which transfers the commodities from the manufactured-in-bulk state to the retailer or dealer. In making this sale they are in competition with wholesalers who are either the major companies' own customers or buy from so-called independent producers and refiners. Brokerage transactions which effect sales between refiners and wholesalers are a part of this commerce.

Some, but not all, of the major companies are at the present time engaged in the sale of gasoline at retail; i. e., make the dealer to consumer sale. In 1933 each and all of the major companies employed this method of marketing in disposing of a very high percentage of all products merchandised. Subsequent to the year mentioned, major companies independently assumed primary responsibility for the spread between the wholesale price and the retail price. This was accomplished in several ways, two of which were the lease and agency station and the company-owned station. More definite reference to this subject will appear later in this report.

The typical producer-to-consumer transaction, as carried through by the major companies, is cargo, tank car or pipe-line delivery to conveniently situated bulk stations or storage plants and truck delivery from storage to dealers. On the Eastern Seaboard at least, at the present time, the transaction ends with this delivery and sale. So-called independent products (both lubricants and gasoline) move by the same type of volume delivery to the wholesaler who functions primarily as a bulk station; i. e., sells to the retailer or dealer and makes delivery to him by tank truck.

Upward of 200,000 [2] individuals or companies function at the retail level of the industry. The figure is inclusive of varied size dealers from large chain station operators owning a multiple number of stations, perhaps a fleet of trucks, well financed and in many ways well able to take care of themselves to owners of small grocery stores, restaurants, lunch wagons, etc., who, perhaps, operate one pump in conjunction with their other businesses. The perhaps average retailer does not have the capital necessary to own and equip a service station. Typically, he is a lessee, generally of a major oil company whose product he sells. His rental is related to the gallonage pumped at the station. If he is a rather small dealer, his wife or other members of the family assist in pumping gasoline and servicing cars. If he is larger, he has one or two employees. In practice, he has to pay cash for the gasoline delivered to his station, inclusive of all taxes. His profit depends upon the spread between the tank wagon or wholesale price and what can be obtained at retail. Anything which narrows this spread is of first importance to him and it is correct to state that most of the complaints received by the Commission emanate from retailers.

[1] State gasoline tax returns cannot be regarded as entirely dependable in determining percentages since they are inclusive of sales to other major companies and to independents.
[2] United States Bureau of Census figure.

The commerce involves sales between major companies, sales between independents and major companies and transactions between wholesalers. Wholesalers often sell at retail or operate chains of service stations; retailers sell at wholesale, and there is a vast commerce direct between refinery operators and industrials. Federal, state and municipal governments purchase large quantities of gasoline and lubricants with no intermediary between the producer and such units.

Major companies uniformly sell trade-marked and branded products. Jobber buying on the spot market quite often exploit their own brand names, and despite the fact that there are but twenty so-called "major" companies, the index of brand names being used upon gasolines, lubricants and other petroleum products is listed in the most authentic source of information as 4115. Gasoline produced by the 430 independent refineries reaches a market which is called "spot" market. The spot market price of gasoline varies from day to day and is supposed to be regulated by supply and demand of manufactured gasoline which is "floating" between the refinery seller and the jobber or tank car buyer, be he a retail dealer or an industrial consumer. There is also a direct relationship between spot price for gasoline and crude production and crude stocks.

As to grades of gasoline sold, they are popularly referred to as first, second, and third grades. First grade gasoline is a standard gasoline to which is added tetraethyl lead. It is generally known as "Ethyl" gas. Under licenses issued by the controllers of this patent, premium gasoline sells uniformly two cents above the price of so-called "regular" gasoline. Number Two, or regular gasoline, is each company's standard unleaded, or slightly leaded, gas of 70 or better octane [3] rating. Number Three gasoline has an octane rating of between 50 and 60.

(b) *Fuel oil*

Oil used for heating purposes and as herein considered, is in a sense a by-product. Formerly this statement was literally true. However, with the advent of successful small domestic oil burners (there are upward of 2,000,000 installations), the demand for fuel oil for house-heating purposes has progressively increased. Figures at page 14 are indicative of the total consumption of this product. The business involves many millions of dollars and touches and concerns an ever increasing number of citizens.

Most of the major oil companies sell fuel oil direct to the consumers, delivering the same to the householder's storage in a tank truck. In addition all major companies from who recent inquiry has been made, sell fuel oil to wholesalers or so-called distributors who, in turn, fill the consumer's tank from their own tank trucks. Quite often, but not invariably, the fuel oil business is carried on in conjunction with gasoline distribution.

(c) *Lubricants, Oils and Greases*

Lubricants, oils and greases of a utility adapted to the lubrication of automobiles and machinery are manufactured and sold by all of the major companies by the Pennsylvania Crude Group and by independent refineries. All of the major companies feature brand names for lubricants and greases and the Pennsylvania Grade Crude Group has for a number of years conducted a nation-wide advertising program featuring the alleged superior qualities of Pennsylvania oils for lubricating purposes. So far as the major companies are concerned, their trade-marked and branded lubricants are sold in conjunction with the sale of their gasoline. This is true locally with the Pennsylvania oils, but for national distribution the Pennsylvania Grade Crude Group is dependent upon the oil jobbers of the country for distribution. This group is also vitally interested in the 100 per cent station problem to be hereinafter discussed, obviously for the reason that it is uneconomical and impossible to establish stations for the sole purpose of distributing lubricant. Motor lubricants and greases are sold by the major marketing companies in conjunction with gasoline and the same agencies are employed in obtaining distribution for lubricants and greases as are used in the distribution of gasoline products.

(d) *Tires and Motor Accessories*

The filling station is a retail outlet for tires, batteries, flashlights and other motor accessories. A number of the major companies recommend to their 100 per cent retail outlets, and indeed to all their retail customers, that such customers stock

[3] Octane—Knock characteristic as related to a knockless standard.

and deal in tires and accessories satisfactory to the company. The dealer is urged to stock and sell these preferred items to the exclusion of other and competitive items. Formerly at least, the preference expressed by the major companies was predicated upon an adjustment arrangement between it and the tire or battery company by which arrangement the oil company received direct payments on all accessories sold to or through the filling station under the control of the major company. Investigations and complaints brought by the Federal Trade Commission have gone a long way toward eliminating the practice of tire companies and accessory manufacturers of granting over-riding commissions and other beneficial hook-ups. (See page 2, ante.) The oil companies generally at the present time recommend a line of accessories and tires. They give as their reason for this recommendation a self-interest predicated upon the fact that if a customer buys inferior accessories, tires, and batteries at the station the buyer will associate such inferiority with the oil products of the company and good-will and business loss will result.

VIII. QUESTIONABLE PRACTICES (LEGALITY OR ILLEGALITY UNDETERMINED) PRESENTLY OPERATIVE IN THE MARKETING OF GASOLINE, LUBRICANTS, FUEL OIL, TIRES, AND MOTOR ACCESSORIES

The purposes set forth at the beginning of this report have been served by information emanating from at least five sources, (a) major oil companies themselves, (b) independent oil producers and refiners, (c) wholesalers, (d) retailers, (e) consumers. From such sources the Commission has developed some information by its own investigations, but a great deal and perhaps the principal part has been taken from complaints received and on file, scores of which have come to the Commission through the President's office, from Senators, Representatives, the Department of Justice, and other departments of the Government. From all of these records and a knowledge of the industry acquired over the years, there is reason to believe that there are currently present in the industry questions and considerations with respect to:

Unjustified price differences and discriminations "which substantially lessen competition, tend to molopoy, or injure or destroy or prevent competition." (Clayton Act, Section 2, Robinson-Patman Amendment.)

Use of tying and exclusive dealing contracts. (Clayton Act.)

Price fixing in gasoline, lubricants, and fuel oil. (F. T. C. Act.)

Intimidation, coercion and other oppressive tactics employed by major marketers against wholesalers and retailers.

Misbranding, false and misleading advertising with respect to the grade, quality, and other characteristics of gasoline and lubricants. (F. T. C. Act.)

Discriminatory contracts with tire and motor accessories manufacturers. (Clayton Act.)

Pump and tank equipment as leased, sold or loaned by marketers of gasoline and lubricants. (Clayton Act, F. T. C. Act.)

Inter-company sales.

In addition to the complaints which fall into the above roughly defined classifications there are a multiple number of related complaints which raise questions with respect to things that are not easily placed in a definite category. Examples of these are the exchange of gasoline as between major companies, price zoning, retail margins, discriminations accomplished by charging unwarranted rentals or failing to charge adequate rentals for filling stations, electric or gas display signs, or advertising allowances not made available to all customers, black listing, unfair use of credit cards, and refusal to sell.

1. *Unjustified price differences and discriminations "which substantially lessen competition, tend to monopoly, or injure or destroy or prevent competition."* (Clayton Act, Sec. 2, Robinson-Patman Amendment.)

The Commission has received a large number of complaints alleging that major oil companies and other sellers of petroleum products are illegally discriminating in prices, meaning by illegal that the price difference or discrimination is unjustified and is attended with substantial lessening of competition, monopolistic tendency or the injury, prevention or destruction of competition.

There is a showing that these discriminations are accomplished in several ways.

(a) *Split Account Differential.*—A so-called "100 percent station" as referred to from time to time in this survey is a retail service station which dispenses only the products of the major company seller and such non competitive products and

items as the seller from time to time designates. A "split account" is a retail filling station which sells the gasoline and products of more than one company. It is the present practice and it has been the practice at least since code operation under the NIRA to sell gasoline to the 100 percent station at one-half a cent per gallon cheaper than to the split account station. It is more than argument to state that the real reason for this differential is to hold out an inducement for retailers to "go" 100 per cent and to confine their selling activities to the products of the marketing company. Some of the major oil companies have claimed that there is an actual saving of one-half cent in selling and servicing 100 per cent stations and that the discrimination is justified under the provisions of Section 2 of the Clayton Act, as amended (Robinson-Patman Amendment), but they have never presented figures or evidence to substantiate their claims in this respect. The problem, in effect, involves a comprehensive investigation of the industry and the Commission has not had the funds with which to conduct an investigation to determine the facts.

One hundred per cent retail distribution for gasoline and lubricants has been and is secured in several ways. Until 1928, or thereabouts, the most successful device employed was the loaning of pump and tank equipment. The loan was accompanied with an agreement that the recipient of the loan would pump only the products of the donor in the loaned equipment. The practical effect of this arrangement was that pump and tank equipment would be loaned to a filling station operator only by one company and 100 per centism resulted.

Beginning about 1928, the major oil companies, led by one of the larger companies in the Mid-west, thought out and put into operation a plan of 100 percentism which became known as the "lease and agency" plan. The plan was relatively simple. The marketing company leased the retail filling station owner's location for a term of years (generally five) by the execution of a regular real estate lease. It then, by a separate instrument, appointed the lessor its agent. Since the owner of the station was now the regular agent of the oil company, all of his acts in the operation of the station were subject to direct order by the oil company, and he was directed to sell gasoline and oil products at certain designated prices; to confine his selling activities to the petroleum products of the lessor, and to other products satisfactory to the lessor.

When this plan had spread over the country, and particularly in the area east of the Mississippi, a marketing situation developed which resulted in strong protest to the Federal Trade Commission and the Department of Justice. The Federal Trade Commission conducted a most extensive investigation and ascertained that a very high per cent of all retail outlets for gasoline and petroleum products throughout the country was under the direct control of the major oil companies and that as a result the marketers of lubricants, motor accessories, and in fact all products logically dispensed through filling stations were barred from their natural market. Particularly affected was the Pennsylvania Grade Crude Group. This segment of the industry markets motor oil and greases and individually or collectively they did not maintain any far-flung system of stations similar to the major companies, but were dependent upon wholesalers for distribution. These wholesale distributors found that they were unable to place Pennsylvania Grade crude lubricants in the filling stations under lease and agency arrangement with the major companies. While the results accomplished by the lease and agency arrangement were exactly the same as those forbidden by Section 3 of the Clayton Act, the Commission was most doubtful that it could successfully attack the situation under existing law. The practical development was that the National Industrial Recovery Act contained provisions for the regulation of the oil industry by the Secretary of the Interior. Even before the Schechter decision, developments to be hereinafter described eliminated the "lease and agency" question.

The major companies attempted 100 per cent control of retail stations by two other devices known as "lease and license," and "license." The lease and license plan consisted of a lease of a privately owned retail station to the major company and the licensing of the owner to sell only the products of the now lessee. The license method attempted to accomplish exclusive dealing results by the execution of a questionable licensing arrangement. These devices never were employed to the extent of the lease and agency contract and were more questionable from a legal standpoint, and less effective in practical operation.

In 1935, or thereabouts, two types of legislation did away with the lease and agency arrangement and all similar devices. The first was the enactment by twenty-one states of chain store tax laws. Filling stations operated under the lease and agency plan or company-owned, were ruled to be chain stores and the

prohibitive and progressive chain store taxes forced the major companies to divest themselves of control as quickly as possible. The second, and, at least to the companies, conclusive stroke was the enactment of the Social Security Law, which, if the arrangement had been continued, made the oil companies responsible, as employers, for every filling station operator tied up under the several arrangement above described. The necessity extended to company-owned and operated stations, for during the period 1928 until 1935, practically all of the major companies purchased desirable sites throughout their marketing areas and erected thereon rather costly and certainly creditable filling stations which they operated themselves; i. e., by paid employees. Single companies invested as much as $40,000,000 in these stations, and it is correct to state that a real competition grew up between the major companies in the matter of acquiring desirable sites and building impressive filling stations. As stated, the enactment of chain store laws and the Social Security Law required the marketing companies to divest themselves of the legal control of these stations. In most known instances legal title was retained.

Having "lost" the control of the many thousands of stations held under the described arrangement, the companies reverted to the practice of selling to all filling station operators at an established tank wagon price, relying for 100 percent control upon the split account differential, merchandise contracts and other influences. However, there sprang up a new device now popularly referred to as the "Iowa Plan", because it had its inception in the State of Iowa.

The Iowa Plan, in actual operation, preserved the desired 100 per cent relationship, at the same time restoring an unqualified relationship of vendor and vendee as between the marketing company and the service station operator. It is accomplished in two ways. First, with respect to the company-owned stations, the marketing company selected the most promising employee in the station when it was operated as a company-owned and controlled station. This individual was told that it was now possible for him to become an independent station operator. He of course had little, if any, capital. Inquisitive as to how he could become an independent station operator, the company informed him that it would sell him the stocks on hand, either on a conditional sales contract or outright if he had the money, and that it would lease the station to him on a basis which would enable him to carry out a successful enterprise. The arrangement which they had in mind was to lease the station to the operator at a rental which generally was one cent per gallon for each gallon of gasoline pumped at the station. This rental was collected in advance in the sense that it was added to the tank wagon price at the time of delivery. For example, if the tank wagon price of gasoline was 15.5¢ the invoice would bill the gasoline to the lessee at 15.5¢ plus 1¢ rental, or a total of 16.5¢.

The second, and less used method, was for the company to lease a station which had become the property of some local bank or investor, at a fixed rental. The lease purchased by the company is generally a rather long-term lease, often ten years. The marketing company re-leases this to some promising and energetic service station man under exactly the same conditions as the owned station, and rental is collected in the same manner.

It will be noted that under the above described arrangements, the marketing company undertakes no responsibility for the margin of profit to be secured by the lessee, and it will be noted further that the plan ingeniously relates the amount of rental received to the pumpage—the more pumpage, the more rental. Since the marketing company is desirous of both rental and gallonage, the lessee operator is constantly under pressure to increase the pumpage of the station. Assuming that he is energetic, keeps a clean and efficient station, employs adequate help and does everything calculated to attract the public to his place of business, there is only one gesture which can thereafter be undertaken to increase gallonage and that is to offer attractive or cut prices.

Probably as a carefully considered competitive device, many of the marketing companies in various parts of the country have brought varying degrees of pressure upon the lessee operator to cut prices and increase volume. In some instances, the evidence is clear that agents of the marketing company have gone to the operators and actually produced cut price signs which they demanded and required be displayed. It is to be remembered that this cut price only narrowed the dealer's margin and was unrelated to the tank wagon price which he paid. The developments after this are natural. For a short time after the display of cut rate prices, the volume of the retailer was increased, such increase being drawn from competitive stations. Confronted with cut prices, competitive stations perforce lower their prices, which in turn has the effect of decreasing the tempor-

arily increased volume of the first price cutter, and all competitors in the given area are again on an equal basis, except that now each is operating at a reduced margin. Any reduction in price, however, results in a benefit to the consuming public.

There is a further ramification among any group of retailers competitive in a given area who have come to the situation just above described. Remembering that the marketing company is selling to all of its dealers, lessees and independents (exclusive of split accounts), at the same tank wagon price, and remembering that the lessee is paying an additional one cent rental, it is clear that disregarding in whole or in part the taxes and the overhead of the independent service station operator, such independent operator is in possession of a one-cent advantage in the situation in terms of laid-down cost. Using again the example of a tank wagon price of 15.5¢ and a rental of one cent to lessee operators, it is obvious that granted a 2.2¢ margin between the lowered and cut retail price and the tank wagon price, the independent has now at least a margin of 2.2¢, whereas, the margin available to the lessee is 1.2¢. Confronted with this situation, the major marketing companies have taken various steps. Sometimes they remit the one cent rental and for a time permit the lessee operator to operate the station without any charge for rent; sometimes the lease arrangement is changed to a fixed rental; i.e., a small sum per month, substantially lower than the rental which would have to be paid if the one cent per gallon pumpage basis were maintained. Independent operators complain of this gesture on the part of the marketing companies, stating in such connection that it is a discrimination. The charge is technically correct, for in a last analysis, lessee dealer A is being sold gasoline on the same basis as it is being sold to independent operator B, and operator A is being provided with a $30,000 or $40,000 station free of charge.

Complaint to the Commission and some investigation tend to give credence to the charge that certain large marketing companies deliberately precipitate the margin price wars just described above. It is claimed with considerable truth that the original company-owned stations were rather widely spaced throughout the trade area; that they occupied the most desirable and prominent locations on important state highways and at intersections. The operators of these stations being under the Iowa Plan were vulnerable to the influence, pressure, and threats of the marketing company and initiated the above described cycle by posting cut prices throughout the area. It is claimed that thirty or forty stations advantageously located throughout a large area (perhaps a whole state) can and do depress the margin of price for the whole state. In isolated areas this procedure has been carried out, but generally, the Commission is in possession of no convincing proof that any major company has, as a policy, intentionally brought economic ruin upon its own retail dealers.

Returning now to the title of this section, it is here concluded that the split account differential is an important auxiliary device in the maintenance of 100 per cent stations. Indeed, it is most probable that were the differential to be erased, the ratio of nine 100 per cent stations to one split account station would be very materially reduced, if not reversed.

Copies of actual complaints received from individual service station operators and other individuals pecuniarily interested in the subject accompany this report, identified as "Exhibit C, pages 1 to 25."

(*b*) *Preferential or Greater Discounts Allowed to Commercial Accounts or Industrial Buyers.*—The Commission has tabulated upward of fifty complaints which make serious protest with respect to the practice of major oil companies and other sellers in granting preferential or greater discounts to so-called commercial accounts and industrial buyers and in some cases to wholesale dealers.

Typical of the first type of complaint is the situation where the marketing seller will deliver gasoline into the tank of the farmer, truck operator, or small user at prices which are lower than those charged to the neighborhood service station operator or retailer. The result is claimed to be and probably is that the retailer's volume is decreased and by reason of such decrease his profits are minimized or are erased entirely. Lest it appear that this practice is confined to major oil companies, it should be here set out that the practice is common to wholesalers and independent marketers; that it is practiced by retailers themselves to the extent that they will "give away" part of their margin to certain preferred customers and accounts, at the same time endeavoring to exact a full margin of profit from the cash buyer and those of the public who visit their stations for gasoline supplies.

The second type of complaint under this heading has to do with situations where the larger selling elements of the industry sell to truck fleet operators, bus lines and to all types of industry which either operate motor vehicles or in some

other way have use for large quantities of motor fuel or lubricants. It is the regular practice of practically all marketing companies to sell this type of user at prices lower than those charged to wholesalers. Occasionally, the described large industrial buyers resell some of the gasoline and oil so purchased to their employees at their various plants and factories at cost, as an additional benefit to the employees. The employees rightly consider this advantage as part remuneration for their services. A very limited number have complained that commercial buyers have installed pumps and are selling to the public. The practice necessarily deprives both the local wholesalers and retail station operators of business and profit.

Again it is to be observed that the recipients of the discriminatory and lower price are not in competition with the recipients of the higher prices (except in the few instances where resales are made) and for such reason the situation involves a refined construction of Section 2 of the Clayton Act. Generally, this practice of large sellers going direct to volume accounts while at the same time maintaining wholesale and retail outlets for their commodities and granting to said large accounts a lower price, has been observed not only in this industry, but in other industries. The question involved is one broader than this study and no conclusion is ventured here. The attention of the Temporary National Economic Committee is invited to this practice.

Copies of letters and petitions of complaint with respect to the above described practices accompany this report, identified as "Exhibit C, pages 26 to 65."

(c) *Price Differences Based on Volume or Trade Classifications, or both.*—The practice of the major oil companies and other marketing units of the industry in selling gasoline and lubricating oils at different prices based on volume purchases as well as arbitrarily classifying trade as to function, has caused the Commission to receive several specific complaints alleging such practices to be unfair price discriminations. To determine the justification of such complaints entails considerable investigation and study on the part of the Commission as to whether or not such price differentials make only due allowance for differences in the cost of manufacture, sale or delivery resulting from the differing methods or quantities in which such commodities are sold or delivered. As to the price differentials based on trade classifications, it must be determined whether or not such trade classifications are arbitrary or true classifications based on functional differences. Furthermore, for any such discrimination to be illegal, it must necessarily lessen competition, tend toward monopoly, or injure, destroy or prevent competition.

It is claimed to the Commission that such quantity sales by the major oil companies are not only unjustifiable under Section 2 of the Clayton Act, but are indefensible from the standpoint of distribution alone, the claim being that major oil companies engaged in production, manufacture, transportation, and distribution absorb this loss in the distributing end to obtain increased gallonage and correspondingly greater profits in the production end of the business. Any merit in the claim is inherent in the question as to whether or not prices are fixed to competitors at the cost stage. For example, if the complainant is a wholesaler, dependent for economic existence on a profit to be made on gasoline purchased from refineries, the determination is on whether this price is fixed and not upon whether the competing major oil company is or is not conducting its marketing operations at a loss.

Investigation of one major oil company upon charges that it is granting illegal discriminatory prices under guise of volume discounts and false trade classifications would necessitate the employment of a large number of lawyers, accountants, and investigators. It has not been undertaken to date by the Commission, and of course, neither the time nor the funds have been available for such an investigation for use in this report.

Copies of complaints as to the above described practices accompany this report, identified as "Exhibit C, pages 66 to 107."

(d) *Secret Rebates.*—Charges against the major oil companies of granting secret rebates to preferred customers, either directly or indirectly through commission agents, have been received frequently by the Commission. There is a relationship between secret rebates and sub-section (c) above, and the evidence is that every element of the petroleum products marketing industry; i. e., majors, independents, wholesalers, and retailers are granting "insides" or so-called secret rebates to certain vendees. Many charges of this type have been preliminarily inquired into by the Commission and the universal answer of the "offending" company has been that the preferential price granted has been given in order to meet competition. Unquestionably, all marketing companies and particularly the major companies seek gallonage by offering price advantages to the customers of other companies. Sometimes the customer transfers his business as the result

of the offer, but more often, he continues to buy from his then supplier and obtains an equal or nearly equal price from it. The Commission has investigated a number of complaints of this character and as a result of such investigations the inequalities complained of were corrected by the offending companies.

Copies of complaints received by the Commission involving the subject matter of this sub-section are herewith identified as "Exhibit C, pages 108 to 128."

(e) *Sales Below Cost.*—The Commission has in its files complaints from independent wholesalers and retailers, alleging that the major oil companies are in limited areas selling gasoline and lubricating oil at prices which are not only discriminatory but are below the sellers' cost. It is charged that this is done through the company-owned or controlled distributors and service stations.

The Commission has received and investigated a few complaints alleging the practice. Typical of such complaints are the exhibits herewith identified as "Exhibit C, pages 129 to 132."

(f) *Leasing Service Stations at Alleged Low and Inadequate Rentals.*—Under the so-called "Iowa Plan," the marketing company's return on each leased service station is dependent upon and commensurate with the gallonage of the station. It can be assumed, however, that the marketing company is not in the real estate rental business and seeks to show no profit from the rental of its stations as an enterprise apart from oil marketing. The marketing company is engaged in the oil business and it is vitally interested in the volume of business flowing through any leased station. The best information which the Commission has tends to show that the real estate operations of at least the major companies are carried on at a loss, investment, repairs, taxes, etc., considered. An additional cause of loss on real estate operations of the companies is that stations have been built or acquired on long term lease, which for local reasons, turn out to be unprofitable. A simple example is the situation where the company has invested perhaps $40,000 in the erection of a modern service station on a corner or highway where the volume of traffic warrants and will sustain a station of the type erected. Local or state authorities change a state road or a traffic artery either away from the station, or at some point traffic is diverted and the $40,000 investment is for the most part lost, because now the pumpage will not produce an adequate return on the investment.

Assuming that this station is leased out, it is clear that a lessee cannot be expected to pay a rental based upon the original capital investment. The marketing company lowers the rental to a basis justified by the actual pumpage and this gesture on its part cannot be characterized as leasing the station on a low or inadequate rental unless the rather unreasonable view is taken that the rental must be based upon the original capital investment and show a profit thereon.

The rental situation has been hereinbefore discussed under Chapter VIII, Section 1, sub-section (a). It is there pointed out that in price wars between retailers where the lessee is paying onecent rental, the major marketing company's lessee is at a disadvantage and in assisting him it is the sometime practice of the marketing companies either to remit the one cent rental or to charge the rental basis from pumpage to a flat monthly rental. There has not been enough time to adequately develop the entire question as to whether or not the principal marketing companies are assuming losses or making profits on their filling station real estate transactions. Such information as is in the possession of the Commission tends toward a belief that this type of transaction is unprofitable to the marketing companies.

Copies of complaints registered with the Commission, illustrative of the charge that major oil companies are leasing stations at low and inadequate rentals, are herewith identified as "Exhibit C, pages 133 to 149."

(g) *Granting of Courtesy or Credit Card Service to 100 Per Cent Stations or Accounts Only.*—It is the rather uniform practice of marketing companies, particularly the major companies, to issue to retail consumers and industrial accounts so-called "courtesy" or "credit" cards. These cards bear the name of the customer and instruct all the company's 100 per cent retail station operators to sell the holder his gasoline and oil requirements on credit and to assign the obligation to the issuing company. The issuing company reimburses the filling station operator at his regular retail price, and bills the holder of the card. The customer benefits to the extent of the credit accommodation and convenience granted. The practical benefit to the marketer is that the holder of the card will use the card and confine his purchases to the products of the issuing company.

The arrangement is extended to 100 per cent stations only and the holder of the card cannot use the card at a split account station. Issuers of credit cards attempt to justify this conduct by stating that they cannot be certain that the

courtesy or credit cards will be used in connection with a purchase of gaoline of their own brands if the arrangement is extended to stations selling other brands of gasoline. The practice is an added inducement for a station to go 100 per cent, and in a sense, it is a penalty against the split account station. Generally, it is probably not a good thing for the gasoline marketing industry. The question as to possible violations of Section 2 of the Clayton Act and the Federal Trade Commission Act requires further study and investigation.

Examples of complaints of this subject as received by the Commission are herewith identified as "Exhibit C, pages 150 to 152."

2. USE OF TYING AND EXCLUSIVE DEALING CONTRACTS (SECTION 3, CLAYTON ACT)

Considerations which arise under this broad heading are infinite in variety, extending all the way from the "lease and agency" relationship to the straight sales contracts containing the provision that the vendee will not deal in any competitive petroleum product, or, indeed, any product not satisfactory to the vendor.

The major oil companies, particularly in the past, appear to have had two main objectives in marketing gasoline and lubricants:

(*a*) the confinement of the service station retailer to its own products, and other products satisfactory to it; and

(*b*) the fixing of the spread between the price paid by the retailer and the price to be charged to the upblic.

More recently and at least on the Eastern Seaboard, major companies have abandoned (b), but seek to maintain condition (a). It is a matter of almost common knowledge that the state chain store tax laws and Social Security obligations have created a difficult problem for the large oil companies, and they have receded progressively from the plan previously discussed, and from the possession or ownership of retail stations operated by themselves in their own names.

Since lease and agency, lease and license contracts, and license contracts have been abandoned for the most part by the principal marketing companies there seems no good reason to discuss them in greater detail than appears ante. Contracts of lease and re-lease (the Iowa Plan) now in general use are of immediate interest and specimens of these types of contract accompany this report, identified as "Exhibit D."

Under these contracts the station is either leased or re-leased to the retail dealer; the rental to be paid by the lessee is conditioned upon the gallonage pumped at this station or oftentimes is based on a flat rental. Many contracts of this type call for one cent per gallon per month rental. This type contract with the lessee is generally designated a "merchandise contract" and frequently contains the condition that the lessee shall not deal in competitive products or other products unsatisfactory to the lessor. Copies of contracts in the Commission's files show that some of these contracts can be terminated without cause by the lessor on short notice, five and ten days, and this right of quick eviction is alleged to make the lessee responsive to the purposes of the lessor marketer. Reciprocal right of the lessee to cancel on the same notice is not incorporated into some contracts.

In addition to the straight covenant not to deal in competitive products, the dealer is held to exclusive dealing by two other devices introduced into his purchasing contract with the marketing company; i. e., by agreeing to buy "his full requirements," or contracting to buy a monthly or yearly minimum which exceeds any reasonable expectancy of volume to be sold at the station.

A "tying" contract is, broadly speaking, a sale or lease of goods, wares, or merchandise upon the condition, agreement, or understanding that the vendee's or lessee's requirements of other products will be purchased or leased from the vendor or lessor as a condition of the first transaction. The practice creates a situation where the principal marketing companies insist that their customers sell *all* products made by the company if it is to purchase any of the products, and of course, the principal product of each company is branded gasoline. No written agreement is used in creating the described arrangement. The Commission has received complaints which make this claim, but generally any charge of the use of "tying" contracts merges into the consideration surrounding 100 per cent station operation as practiced by the marketing companies.

Section 3 of the Clayton Act prohibits a lease, sale, or contract for sale, with the agreement that the lessee or purchaser shall not use or deal in the goods of a competitor of the seller or lessor, where the effect may be to substantially lessen competition or tend to create a monopoly.

It is to be noted that every "tying contract" can be phrased in the form of a "requirement contract." A tobacco dealer, for instance, might buy of a large tobacco company his "entire requirement" of tobacco for the year. This would necessarily prevent his dealing in the tobacco of competitors. Or a shoe manufacturer might agree to lease his "entire requirement" of shoe machinery from a machinery company, giving them the right to retake any machines if he took part of his "requirement" from a competitor.

Moreover, there is a real difference between "requirement contracts" and ordinary contracts for sale. If a manufacturer contracts to buy 5,000 gallons of oil from the Standard Oil Company during the coming year, he is at liberty to buy any quantity he pleases from competitors. But if he contracts his "entire requirement" from the Standard, he impliedly agrees to buy none from competitors. In addition to the affirmative convenant to buy a certain quantity from the Standard there is an implied negative covenant, not to buy from competitors. This negative covenant is within the prohibition of Section 3 of the Clayton Act if the effect may be to substantially lessen competition or tend to create a monopoly.

It is necessary to inquire therefore whether the effect of such contracts may be to substantially lessen competition or tend toward monopoly. This cannot safely be left to a pure question of fact to be determined anew with respect to each controversy. The size of the corporation using the contract, and its general monopolistic intent, are, it is true, important questions to consider before an answer can be given in a particular case. But to a considerable degree, it is a question of law whether a given type of contract tends to restraint or monopoly. Certain types of "tying contracts" inherently impose artificial restraints on the purchaser so severe, and so devoid of justification from the point of view of productive and distributive efficiency that they should be condemned whether they be used by a large or small manufacturer. In others, the element of artificial restraint might be so slight, and the business justification so clear that they would be approved, regardless of the character of the parties.

There is a presumption of unlawful restraint arising from an "exclusive" contract. Every "exclusive" contract has some tendency to impose restraint on the purchaser. Some such contracts have an inherent tendency to restrain trade and are unlawful per se, regardless of the seller's size and general monopolistic intent. Is the primary purpose of such contracts to secure legitimate economic advantages or is the main purpose to create artificial diversion of trade? If such contracts are merely arrangements reasonably necessary to secure to the parties legitimate economic advantages other than the artificial diversion of customers from the seller's competitors, such fact should be considered in determining the legality of the contract. Where the producers are few and powerful, and are engaged in other respects in an attempt to monopolize the market, there is a strong probability that artificial restraint is the main purpose.

Copies of typical complaints as received by the Commission with respect to this subject are herewith identified as "Exhibit C, pages 153 to 162."

3. RETAIL PRICE FIXING IN GASOLINE

It is a matter of common knowledge and report that all marketing companies maintain a fixed differential for premium or high test gasoline. Most premium or high test, gasolines are manufactured by a patented process which makes use of tetraethyl lead, the patents being owned and licensed by the Ethyl Corporation. A few high test brands are manufactured without the use of the ethyl patents. A fixed differential of two cents per gallon above "regular" gasoline is provided for in the licensing arrangements between the owner of ethyl gasoline patents and its licensees. Other high test brands maintain the same differential. The Department of Justice has instituted a court proceeding which challenges the legality of this licensing plan.

Complaints alleging price fixing in the industry at all levels before and including the tank wagon price have been referred by the Commission to the Department of Justice for its consideration.

Subject to what has been discussed hereinbefore under rebates, price discriminations and split account differentials, the retail marketers purchase their gasoline and other petroleum products at prices which are very similar if not uniform. Charges of illegal agreements between retailers seeking to secure for themselves a definite and fixed margin between tank wagon price and the retail price are generally found to be collateral with controlled margins as influenced or brought about by direct requirements of the large marketing companies. Since this relation exists, a sketch history of controlled margins of profit to the retailer and present day trends with respect to this factory here follows.

When the lease and agency arrangement became the most popular and extensively used method of station control, the marketing company assumed responsibility for the spread between the tank wagon price and the retail price, and so far as stations controlled under the lease and agency plan and company-owned stations, the task was not difficult. It was only when sales were made to independent retailers that the task of controlling the margin became difficult. Independent retailers buying at the tank wagon price were in a position to attract gallonage by quoting a price lower than the price posted by the marketing companies in their controlled stations. This condition usually continued to a point where the gallonage of some marketing company was affected and such company elected to lower its retail price to meet the competition. When this was done, other marketing companies operating in the area followed and the net result was a reduction of the consumer price; a lowered margin or spread to the independent retailer and sometimes a cut in the tank wagon or wholesale price. The described type of price war was local in character, sporadically timed, relatively short-lived, and in last analysis evidenced punitive conduct on the part of large marketers rather than true price competition. As soon as the price cutters were sufficiently "disciplined" former prices were restored.

At the time of this type of lease and agency and company-owned control, the Commission received numerous complaints alleging that the large companies were destroying independent competition by lowering the margin in their owned and controlled stations to the point near the tank wagon price; at the same time holding the tank wagon price rigid all along the line, the independent being in a position where he had to buy his gasoline at the established tank wagon price and sell at a very small margin in competition with his supplier operating through owned or controlled stations.

Since the Iowa Plan came into operation about 1936, the type of complaint most often received by the Commission is that the margin of profit accruing to the retailer is not sufficient to accord him a living, or a fair return upon his investment and enterprise. As hereinbefore appears, retail dealers and groups of retailers have made complaint that marketing company control, as it presently exists, seeks to lower or force down the gross margin of profit between the tank wagon price and the retail price, to the benefit of the marketing companies. There is a showing that retail dealers in some trade areas have dealt with this—as they view it—disregard for their profits and economic wellbeing by agreeing upon a gross margin or spread and fixing the same in an amount satisfactory to them. Since tank wagon prices are in the main uniform as between the several marketing companies, this practice results in identical retail prices secured by the parties to the undertaking.

The Commission observes a uniformity of conduct on the part of all major companies with respect to prices, methods of selling, and indeed, nearly every phase of trade conduct.

Accompanying this report, identified as "Exhibit C, pages 163 to 185," are copies of complaints received by the Commission in recent years with respect to the charge of price fixing and combination and conspiracy in the marketing of petroleum products.

The Commission has in its files several types of complaints received from consumers of fuel oil and those interested in fuel oil marketing. Copies of letters illustrative of such complaints are herewith identified as "Exhibit C, pages 186 to 204."

Complaints which allege intimidation, coercion, or other oppressive tactics employed by large marketers against retailers have been received. They take the form of claims that retail leases have been arbitrarily cancelled without reason, petroleum supplies have been refused, harmful business conduct has been dictated to lessee retailers and independent retailers. Complaints of this character are herewith identified as "Exhibit C, pages 205 to 235."

4. ADVERTISING WITH REGARD TO THE GRADE, QUALITY, UTILITY, AND OTHER CHARACTERISTICS OF GASOLINE AND LUBRICANTS

Claims for the quality, utility, greater mileage, etc., of branded gasoline and lubricants appear in all advertising media. Frequent complaints are made that these claims and representations are in whole or in part false. The Commission has investigated complaints of this character and has secured a number of stipulations and issued several cease and desist orders against such practices ("Exhibit E").

Copies of complaints with respect to this subject are herewith identified as "Exhibit C, pages 236 to 241."

5. CONTRACTS WITH TIRE AND MOTOR ACCESSORIES MANUFACTURERS

The Commission has information that almost every large oil company has contracts with manufacturers of tires, batteries, automobile lamps and other accessories.

Preferential treatment of the major marketing companies by tire companies and others is being dealt with by formal procedure of the Commission and by investigation.

6. PUMP AND TANK EQUIPMENT AS LEASED, SOLD, OR LOANED BY MARKETERS OF GASOLINE AND LUBRICANTS

In *Federal Trade Commission* v. *Sinclair Refining Company et al*, 261 U. S. 463, decided in 1923, the Commission, in substance, charged that it was an unfair method of competition for a large marketer of gasoline to loan or lease pump and tank equipment to retail dealers, upon the condition or agreement that the dealer would not use the equipment for distributing the products of competitors. The Supreme Court, in passing on the case, stated that the practice did not restrain the commerce involved in an undue manner and that it did not constitute unfair competition within the meaning of the Federal Trade Commission Act or under the provisions of the Clayton Act. Since this ruling, all marketing companies have made use of the decision in divers ways. At the present time, some of the major companies are allegedly selling pump and tank equipment at preferential prices made possible by special contracts with the equipment manufacturers; some allegedly are loaning the equipment outright and still others have made arrangements whereby dealer customers allegedly can purchase from the manufacturer at what seem to be preferential prices.

Two types or phases of competition are involved: First, pump and tank equipment manufacturers and their wholesale dealers who seek business from retail gasoline distributors are alleged to be injured by discriminatory advantages given to purchasers by or through the oil company. Second, the provision of free equipment or equipment at favored prices by large companies in conjunction with the sale of gasoline and other petroleum products affects the competition between rival oil marketers. Not only is pump and tank equipment involved, but also service station and shop equipment such as lifts. grease guns, air compressors, electric signs, etc.

It is obvious that the principal marketing companies are not particularly interested in developing a business on these types of commodities. They are essentially engaged in the sale of petroleum products and it is only to further the sale of these products that they are interested in the sale or loaning of equipment. The information is that when equipment is sold to the retailer at a favored price, or when it is loaned to him, there is alleged to be definite understanding (usually oral) that the recipient will remain or become a customer for the petroleum products of the marketing company.

Among the objectors to the practice are wholesalers engaged in selling equipment as an independent project; i. e., independent of the sale of oil products. In analyzing the subject, it is obvious that manufacturers of pump and tank equipment and of other retail station equipment and the wholesalers who sell their products are at a disadvantage in meeting the described competition.

In connection with the question of equipment as loaned or sold by the principal marketing companies, the following phases require further study and consideration:

(*a*) The practice of selling equipment and relating the sale to gallonage; i. e., payment to be made at a stipulated rate per gallon or any similar arrangement;

(*b*) Marketing companies' interest in, contract with, or ownership of manufacturers of pump, tank, greasing, and other equipment;

(*c*) Price discrimination as allegedly practiced by the equipment manufacturing companies and the large petroleum products marketers.

Copies of letters of complaint received by the Commission with respect to the subject matter of this section are herewith identified as "Exhibit C, pages 242 to 260."

7. EXCHANGE OR INTERSALE OF GASOLINE BY THE MAJOR MARKETERS

Sales figures assembled by the Department of Justice and admission by major marketing companies establish that there is an extensive exchange of gasoline between them. According to the Commission's information, gasoline so exchanged is not usually processed further by either party to the exchange and is sold under the brand names of the respective marketing companies; i. e., if the

A Company exchanges gasoline with the B Company, the A Company will market the gasoline received from the B Company under A Company's trade name; the B Company will market gasoline received from the A Company under the B Company's trade name.

The exchange account is kept in barrels of gasoline and not in dollars. If adjustment is necessary at the end of any stated period, it is made on the basis of current prices. With respect to the practice as a factor in the retail marketing of gasoline, two considerations arise. First, with respect to advertising, and second, with respect to the practice as it extends the range of selling activity of each company.

This report has already made some reference to the extensive advertising done by all the major marketing companies; the creation of customer demand, or so-called consumer acceptance, for the branded products of the several companies—Esso, Fire Chief, Conoco, Good Gulf, Sunoco, H–C, Amoco, Super Shell, Texaco, and others. The customer who prefers and regularly purchases one or another of these branded products believes that the product possesses certain qualities, characteristics or merit not found in competing brands. Therefore, he purchases his gasoline requirements from the company of his choice in the belief that he is obtaining a product manufactured by that company. The practice just described defeats at least the last referred to assumption of the customer; namely, that the gasoline is manufactured by a particular company and contains all the characteristic qualities set forth in that company's advertising.

It is the understanding of the Commission that the Department of Justice intends to provide the Temporary National Economic Committee with certain observations and conclusions with respect to what this practice means in terms of production control, etc.

Copies of complaints with respect to the above described practice accompany this report, identified as "Exhibit C, pages 261 to 266."

IX. CONCLUSIONS

The data presented herewith constitute a survey of the character of questionable and perhaps illegal marketing practices, which allegedly permeate the entire retail marketing structure of the petroleum industry. It is quite apparent that a proper solution of the various problems presented herewith cannot be made until a thorough and complete investigation has been made of the marketing practices in this industry, with particular relation to the marketing practices of the major oil companies. The report itself is illustrative of the fact that complaints have been lodged against every large marketer, group of marketers, and some retail associations. Some of these matters (those which seem most serious or oppressive) have been investigated by the Commission and corrective action taken in a number of instances. Other complaints have been referred to the Department of Justice. The Commission has been unable to undertake a general investigation of the various practices for the reason that it has not had an appropriation sufficient to enable it to conduct such a comprehensive investigation and at the same time carry on the duties imposed upon it by law.

"Exhibit No. 1295," introduced on p. 9143, is on file with the Committee.

SUPPLEMENTAL DATA

The following documents are included at this point in connection with testimony of Eugene L. Orvis, supra.

EXHIBIT No. 1309

PETROLEUM RAIL SHIPPERS ASSOCIATION

1700 Electric Building, Fort Worth, Texas

1000 RAMSEY TOWER, OKLAHOMA CITY, OKLAHOMA, *August 31, 1939.*

Mr. C. C. ROCKENBACK,
StL&SW Railway Company, St. Louis, Missouri.
Mr. J. R. Koontz,
StL&SF Railway Company, St. Louis, Missouri.
Mr. GEORGE T. ATKINS,
M. K. T. Railroad Company, St. Louis, Missouri.
Mr. C. E. PERKINS,
Missouri-Pacific Railway Company, St. Louis, Missouri.
Mr. A. MACKENZIE,
Rock Island Lines, Chicago, Illinois.
Mr. R. G. MERRICK,
Santa Fe Lines, Topeka, Kansas.
Mr. C. G. HAYES,
Texas & Pacific Railway Company, Dallas, Texas.

GENTLEMEN: We are at a loss to understand just why Docket #17221 was turned down. If there is any rhyme or reason to reducing a 19¢ rate to 10¢ to meet truck competition, how would you possibly think that reducing a 46¢ rate to 42¢ would be a fair and reasonable reduction? The Standard Oil Company told you in Ex Parte 123 Case that a percentage increase was the only fair method of increasing a rate. They told you in St. Louis that the only fair method of reducing a rate was the same number of cents per hundred pounds regardless of the rate. There is an unconfirmed rumor that your reason for not reducing your rates from Southwestern to Western Trunk Line Territory is the possibility of a war in Europe. We do not think that this is any reason. If the United States Government takes over the railroads they cannot only raise the rates in five minutes but they can also refuse to handle petroleum products or do anything else they think is necessary.

We think we have proven beyond the question of a doubt by facts and figures, by recognized authorities in petroleum sales and by jobbers of petroleum products who told you in the presence of a Shell Petroleum Company representative that they were forced to buy from Shell Petroleum Company but would much prefer to buy from an independent in the Southwest. I have talked to practically every traffic executive of the South Western Freight Bureau and with very few exceptions and by far a majority were very much in favor of making a material reduction in these rates. We cannot understand why you will make such drastic reductions to try to recapture business that is already gone and will not make nearly so drastic a reduction to hold the business you now have but will not have one year from now. The larger companies have shown you the number of cars they ship over your line but you know and we know that a considerable number of these cars are moved in switch movement. Mr. Roe of the Mid-Continent Petroleum Corporation tells you that he ships more cars than any one member of the Petroleum Rail Shippers' Association. This, I doubt and I do know that there are several members of this Association that the total freight charges on their shipments far exceed charges on shipments made by the Mid-Continent Petroleum Corporation.

This is our final effort to get the Southwestern Lines to help retain this present revenue to the railroads. *We ask each one of you if you are willing to join with the railroads addressed in serving definite notice and publish the 1916 scale of rates from origins on your lines to destination on your line.* You have stated that the Southwestern Lines could not reduce the rates without the approval of the Western Trunk Lines. It is not necessary for you to have their approval.

If the Rock Island, for instance, will publish these rates from Enid, Duncan, Ft. Worth, Houston, Ardmore, Oklahoma City, El Dorado, Arkansas, Wichita,

Kansas, to Omaha, St. Louis, Chicago, Minneapolis, Sioux Falls and Watertown, South Dakota, Keokuk, Peoria, Des Moines and intermediate points you know and we all know that all of the other lines serving the Western Trunk Line Territory as well as the Central Freight Association Territory would immediately make a similar reduction. You further know that the Western Trunk Lines and Central Freight Association Lines are not going to join you in reducing these rates. They prefer to do as the Wabash Railroad has done; increasing their tonnage originated from 57 million in 1930 to 186 million in 1937; 228.1% increase while their revenue decreased from $3,000,000 to $2,000,000. In other words they hauled nearly three times as much tonnage for about one-third less money.

We would appreciate having an answer to this letter from each of you not later than Wednesday, September 13th as they will have a very material effect on our deciding in a meeting at Kansas City, September 15th, as to just what course to pursue. We assure you that your refusal to serve this definite notice is going to cause a very material reduction in your revenue and will eventually mean the losing of practically all of it. This is not a threat although each one of you have admitted that one of the reasons you do not reduce the rates is because of the fear of what the major oil companies will do to you. We are merely stating facts as we know actually face us. You have it in your power to save this revenue to the railroads or to drive it from your lines and from the rails. Further, I think it is advisable for you to answer this letter and I would be pleased to have you banish any fear of any loss of tonnage from the larger companies due to your action in this matter and further state that we are very anxious to secure definite information of any actual business taken away from any railroad due to their equalizing the independent refiners rates as we want to use this with other information we have before the powers in Washington if and when necessary. We have no fear that the Interstate Commerce Commission will suspend these rates if you publish them because this will be just the proof we want; that they are being dominated by the major oil companies and that is the information the antimonopoly group in Washington is going to develop.

Yours very truly,

(Signed) M. H. Champion,
M. H. Champion,
President.

MHC.eo

I hereby certify that the foregoing is a true and exact copy of the original letter mailed to the above seven companies under date of August 31, 1939.

M. H. Champion.

Petroleum Rail Shippers Association
1700 Electric Building, Fort Worth, Texas.

At Oklahoma City, Oklahoma, *October 13, 1939.*

Mr. James R. Brackett,
Executive Secretary, Temporary National Economic Committee,
Washington, D. C.

Dear Sir: With further reference to your telegram of October 10th and my reply of the 11th, I enclose, pursuant to your request, authenticated copy of letter written by me on August 31, 1939, on behalf of the Petroleum Rail Shippers Association to seven Southwestern Railroad traffic officials.

In connection with the statement in this letter, "This is not a threat, although each one of you have admitted that one of the reasons you do not reduce the rates is because of the fear of what the major oil companies will do to you," I desire to say that several of the Southwestern railway traffic officials have stated to the writer and other members of the Petroleum Rail Shippers Association in private conferences during the past two years when being pressured by us for equalization of rates from the Mid-Continent area, that they knew the rates were too high and that the railroads were losing traffic but they were handicapped in sponsoring and making the reductions that we asked for because of the pressure of the large oil companies who were still substantial shippers over their lines and who might build additional pipelines if the rate structure was materially reduced, thereby taking additional business away from them. This, after all, is only a natural situation because volume of business exerts a pressure in all lines of business and in all directions.

During the past twenty years the rail rates on petroleum products have been reduced as much as 50% in all parts of the United States except from the Mid-Continent fields to meet various types of actual and proposed transportation competition. During this same time the rail rates from the Mid-Continent producing and refining fields to all territories have been increased as much as 52%, thereby jeopardizing the business of the independent refiner located in the Mid-Continent fields who is endeavoring to find a market for his products which at this time is mostly in the Middle West. Other modes of competition, such as pipelines, water transportation and trucking competition, are gradually taking away the independent's business, which not only affects the refiner, his investment and his employees, but likewise affects the thousands of independent jobbers in the Middle West who have been developed as sources of distribution for the independent refiner and who desire to continue to market under their own brand and as independent business men. We have been pressing for a sufficient reduction in freight rates to enable us to meet this competition, which reduction is not sufficient in extent to jeopardize the railroads, but we feel would help to gain back a great deal of the business lost by the independent and to prevent the further building of pipelines and the development of other modes of transportation that will ultimately take all of this long haul petroleum traffic away from the railroads. These facts are generally admitted by traffic officials of the railroads affected, and the major companies have been appearing at hearings before carriers as well as the Interstate Commerce Commission advocating a continuation of high rates and even increases, at the same time making plans to build more pipelines and to take more traffic away from the railroads.

The railroads are engaged in the selling of transportation and the shipper that controls the routing on the most tonnage is beyond the question of a doubt given the most consideration in service and in transportation charges, regardless of the Interstate Commerce Commission or any other regulatory bodies. For instance, the Interstate Commerce Commission recognizes this fact in its decision in I. C. C. Docket No. 27682 (Estimated Weight Case) in which the complainants requested that the estimated weight on gasoline be reduced from 6.6 pounds per gallon which was established in 1910 to a figure closely approximating the actual weight which was recognized by the Commission in its decision to be somewhere near 6.0 pounds per gallon. Their principal reason for refusing to grant this request was because the companies controlling 95% of the business to this territory were opposed to this change for very obvious reasons. By referring to the list of those opposed to this change you will find they were major companies, owning their own transportation facilities, then by checking the records on file with the Interstate Commerce Commission you will find that a considerable percentage of the earnings of these large companies are made on the same transportation facilities and this has been true since the discovery of crude oil. The only way they can insure themselves of a profit on their transportation facilities is to be able to control or influence the freight rates through the enormous amount of tonnage they ship by rail and which is not possible or desirable for them to ship through their own transportation facilities.

All we ask to compete is a fair reduction in rail rates from the Mid-Continent Area in keeping with what has been done throughout the remainder of the United States in order that our delivered costs will be competitive with that of the major company's transportation facilities. The condition in petroleum transportation from the Southwest is very similar today to that described by Commissioner James Rudolph Garfield in his letter of transmittal in report of the Commissioner of Corporations, May 2, 1906, printed by the Department of Commerce and Labor, in the Government printing office. I would like to call your attention to this report, which describes the situation, and all that is necessary to make it apply today is to eliminate the name "Standard Oil" and use the name "major companies", and use the name "independent refiners."

It is apparent from your telegram that the Temporary National Economic Committee is interested in the transportation angle as it affects petroleum industry today. I might therefore call your attention to the fact that the Petroleum Rail Shippers Association filed a complaint before the Interstate Commerce Commission which was assigned Docket I. C. C. 28106 set for hearing July 10, 1939. The railroads requested we withdraw the case as they desired to attempt to make the necessary adjustments. We declined to withdraw but requested and secured postponement of the hearing. After several conferences the carriers refused to make any adjustments even though in the meantime they have made numerous reductions in rates upon application of the major oil and pipeline groups. The hearing in the above case has now been set for Dallas, Texas starting Monday morning, October 23rd. All interested parties are expected to attend and to

testify under oath. This, therefore, should clarify the various claims in connection with transportation rates, especially from the Mid-Continent area. We are in hopes, of course, as result of this hearing, relief we are entitled to will be granted and in the event of an adverse decision, we expect to continue the fight for our right to stay in business through whatever means are available. It seems an easy matter for the major oil companies to get adjustments in freight rates wherever whenever and to whatever extent they desire which they are doing even right at this time. We, therefore, are unable to understand why we, as rail shippers and as substantial supporters of our railroads, cannot get the recognition and consideration from the Mid-Continent area, which is the origin of the pipelines to the Middle West.

Should the committee desire, I can arrange to appear before your committee any time after the week of October 23rd. I make that statement as to dates because we are very busy at this time preparing our case for presentation at Dallas, October 23rd, and naturally, we want to leave nothing undone to get the facts clearly before the Commission.

I trust that this answers the request as embodied in your telegram.

Yours very truly,

PETROLEUM RAIL SHIPPERS ASSOCIATION,
By M. H. CHAMPION, *President.*

AFFIDAVIT

STATE OF OKLAHOMA,
County of Oklahoma, ss:

M. H. CHAMPION, President of the Petroleum Rail Shippers Association, being duly sworn, says:

That several of the Southwestern Railway Traffic Officials have stated to him in private conferences during the past two years when being pressured for equalization of rates from the Mid-Continent area, that they knew the rates were too high and that the railroads were losing traffic but they were handicapped in sponsoring and making the reductions asked for because of the pressure of the large oil companies who were still substantial shippers over their lines and who might build additional pipelines if the rate structure was materially reduced, thereby taking additional business away from them.

That during the past twenty years the rail rates on petroleum products have been reduced as much as 50% in all parts of the United States except from the Mid-Continent fields to meet various types of actual and proposed transportation. That during this same time the rail rates from the Mid-Continent producing and refining fields to all territories have been increased as much as 52%. That other modes of competition, such as pipelines, water transportation and trucking competition are gradually taking away the independent's business which not only affects the refiner, his investment and his employees but likewise affects the thousands of independent jobbers in the Middle West who have been developed as sources of distribution for the independent refiner and who desire to continue to market under their own brand and as independent business men. That this Association has been pressing for a sufficient reduction in freight rates to enable them to meet this competition which reduction is not sufficient in extent to jeopardize the railroads and that the major oil companies have been appearing at hearings before carriers as well as the Interstate Commerce Commission advocating a continuation of high rates and even increases.

That the Petroleum Rail Shippers Association filed a complaint before the Interstate Commerce Commission which was assigned Docket I. C. C. #28106 originally set for hearing July 10, 1939. That the railroads requested withdrawal of the case as they desired to attempt to make the necessary adjustments. That the Association declined to withdraw but requested and secured postponement of the hearing. That after several conferences the carriers refused to make any adjustments even though in the meantime they have made numerous reductions in rates upon application of the major oil and pipeline groups. That the hearing in the above case has now been set for Dallas, Texas starting Monday morning, October 23, 1939.

(Signed) M. H. CHAMPION,
President, Petroleum Rail Shippers Association

Subscribed and sworn to before me this 17 day of October 1939.

[SEAL] CLAIR C. CHILDERS, *Notary Public.*

My Commission expires 6–27–41.

The following letter is included at this point in connection with testimony on p. 9018, supra.

EXHIBIT NO. 1422

Cable address SHELPETCO ST. LOUIS
Telephone CHESTNUT 7420

SHELL OIL COMPANY, INCORPORATED
Shell Building, Saint Louis, Missouri

OCTOBER 25, 1939.

Mr. JAMES R. BRACKETT,
Executive Secretary, Temporary National Economic Committee,
281 Apex Building, Washington, D. C.

DEAR MR. BRACKETT: I promised Dr. Lubin when on the stand before your Committee I would obtain for him some data on the cost of Workmen's Compensation insurance, for his information and your record, which promise I am now consummating.

As to rates for individual job classifications in various states, I hand you a table furnished me by Mr. Blakeslee, who coordinates the Safety activities and Accident statistics for the American Petroleum Institute.

With regard to the over-all cost of Workmen's Compensation Insurance—in different companies it will be obvious from the above table that these will vary considerably depending upon the branches of the industry in which the company operates. If, for example, the company is engaged in exploration and production only, its over-all rates will be quite high. If, however, it is engaged in marketing only the over-all rate will be relatively low. For the larger integrated companies it is my estimate that the over-all costs will range from 1.60 to 2.50 percent of the pay-roll, depending upon the degree to which different industry branches are represented in the integrated operation, and the particular company's loss experience.

I hope this will supply the information desired, and wish to take this opportunity to thank you for your great courtesy in arranging for me to be heard prior to the originally scheduled time.

Yours very truly,

H. H. ANDERSON, *Vice-President.*

HHA–B
(1 att.)

Compensation-insurance manual rates applying to petroleum risks—Aug. 1, 1939

[Provided by the National Council on Compensation Insurance]

State	Calif.	Okla.	Texas	Louisiana	Mass.	Illinois	Indiana	New Jersey	Kansas	Missouri	New York	Penna.
Benefit index	.820	.846	.802	.770	.836	.820	.775	.836	.785	.892	1.000	1.004
Code 1321	2.07	4.20	4.09	5.05	2.60	2.47	2.22	([1])	3.50	3.33	5.30	3.75
4740	1.19	2.84	2.85	2.00	1.60	1.63	1.50	2.45	1.59	2.31	3.54	1.80
4743	1.23	4.30	4.14	2.78	3.46	2.62	2.31	([1])	2.42	3.65	5.50	([1])
6202	6.35	12.15	11.36	8.96	9.48	6.51	5.25	([1])	([1])	10.98	11.28	5.00
6209	11.78	21.80	21.84	16.55	22.82	12.35	([1])	([1])	9.24	([1])	27.58	([1])
6233	4.51	12.40	9.35	([1])	([1])	([1])	([1])	([1])	([1])	8.87	([1])	7.10
7515	1.23	1.20	2.25	2.67	1.37	1.29	1.15	1.90	1.32	1.75	2.82	([1])
8350	1.34	2.31	2.33	1.90	1.43	1.43	1.37	2.15	1.43	2.55	2.67	1.75
8387	1.16	1.77	([1])	1.55	1.33	1.63	1.19	2.23	1.23	1.66	3.28	1.50
8604	4.34	6.93	3.30	([1])	([1])	([1])	([1])	([1])	([1])	([1])	([1])	5.00

[1] No Rate Published.

(Rates shown indicate the premium for each $100 of pay roll.)

Code 1321.—Oil Producing-operation of oil leases—including Drivers, Chauffeurs, and Helpers.
4740.—Oil Refining-petroleum—including Drivers, Chauffeurs, and Helpers.
4743.—Gasoline Recovery—including Drivers, Chauffeurs, and Helpers.
6202.—Oil or Gas Wells-development—including Drivers, Chauffeurs, and Helpers.
6209.—Oil Rig or Derrick Erecting or Dismantling-wood or metal—including Drivers, Chauffeurs, and Helpers.
6233.—Oil or Gas Pipe Line Construction—including Drivers, Chauffeurs, and Helpers.
7515.—Oil or Gas Pipe Line Operation—including Drivers, Chauffeurs, and Helpers.
8350.—Oil or Gasoline Distributing—including Drivers, Chauffeurs, and Helpers.
8387.—Automobile Accessories Service Stations—including Chauffeurs and Helpers.
8604.—Geophysical Exploration—including Drivers, Chauffeurs, and Helpers.

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